SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA BARBARA
SANTA MARIA BRANCH; COOK STREET DIVISION
DEPARTMENT SM-2 HON. RODNEY S. MELVILLE, JUDGE

THE PEOPLE OF THE STATE OF )
CALIFORNIA, )
Plaintiff, )
-vs- ) No. 1133603
MICHAEL JOE JACKSON, )
Defendant. )

REPORTER'S TRANSCRIPT OF PROCEEDINGS

THURSDAY, MAY 5, 2005

8:30 A.M.

(PAGES 8967 THROUGH 9011)

REPORTED MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304
BY: Official Court Reporter 8967

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1 E X H I B I T S
2 FOR IN
PLAINTIFF'S NO. DESCRIPTION I.D. EVID.
3
4 418 Copy of check for $1,000,000, page 3 8975
5 418-A Remainder of pages from
6 Exhibit 418 8975 8975
7 419 Copy of check for $500,000, page 3 8975
8 419-A Remainder of pages from
9 Exhibit 419 8975 8975
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Santa Maria, California
Thursday, May 5, 2005
8:30 a.m.

(The following proceedings were held in open court outside the presence and hearing of the jury:)

THE COURT: Good morning.
COUNSEL AT COUNSEL TABLE: (In unison)
Good morning, Your Honor.
THE COURT: I want to talk about the 400 series exhibits before we start argument on the dismissal. I was trying to review some testimony yesterday.
Is someone from the District Attorney's Office prepared to address that?
MR. AUCHINCLOSS: Good morning, Your Honor.
THE COURT: Did you work on this at all last night, or --
MR. AUCHINCLOSS: Well, I'm prepared to address the Court's concerns. But I'm not certain exactly what areas you would like me to address.
THE COURT: What I was looking for is independent authentication of some of the documents. The documents were marked primarily by an officer just reporting what he'd seized in a search, and the fact they were seized in a search is not sufficient 8970

authentication to get the documents in. So I was trying to keep notes of the various independent authentication as you went through them. And I was looking at the list that I had and this morning I was trying to go through some testimony from yesterday and the day before, and I found that you had authenticated Exhibit 400, which I didn't admit yesterday. And I suspect you authenticated some others that I missed, so --

MR. AUCHINCLOSS: Well, in terms of the foundation for the admissibility of all the documents, as we pointed out in our brief, Your Honor, authentication --

THE COURT: I'm beyond your brief.

MR. AUCHINCLOSS: Okay.

THE COURT: Let me tell you, like on Exhibit 400, we have -- maybe it would be best if I address particular problems with you than --

MR. AUCHINCLOSS: Okay.

THE COURT: I think Exhibit 400 was properly authenticated by Mr. Provencio.

Mr. Sanger, rather than have him speak to that, and that's my -- my feeling at this point. Do you have anything you want to address on that document?

MR. SANGER: I will only because I think that this may -- this may have a carry-over to some of the others. So let me just say this in general. 8971

At the time we filed our brief, of course, Mr. Provencio had not testified. His testimony, I think, is not sufficient for authentication in general. His testimony, besides being highly suspect, was to the effect that he went through a file cabinet that wasn't really necessarily his to go through, and that's where he saw certain documents. He doesn't -- he hasn't laid the foundation for what the document is.

If we look at 400 in particular, it appears to be -- let me move it up here so I can stand at the microphone. It appears to be one page of something that has some purported initials at the bottom. And besides authenticating the document in the sense that, "I saw it in this house" that was used by a number of people, including Marc Schaffel, there has to be some authentication as to whether or not this document was actually a document that was effective. In other words, is this something -- is this a draft? Is this a page of a draft? Is this something that the rest of which was discarded? Or, there was a new first page put on and that's why you have this page? I mean, none of that has been explained. So simply having a page, and having a witness say, "That looks like something I saw when I was flipping through my boss's file cabinet" --

THE COURT: In other words, he didn't identify the signatures or anything other than to

say, “Yeah, that’s a document I saw in their office.”
MR. SANGER: That’s correct. And it’s only one page of a document. So, you know, we don’t have authentication as to signatures. We don’t have authentication as to the nature and extent of the document and what it means.
THE COURT: Okay.
MR. SANGER: Yes.
THE COURT: That’s sort of -- Mr. Sanger was able to sort of pinpoint the problem I’m having with these documents.
MR. AUCHINCLOSS: Well, our introduction of these documents, the foundation for them, as we pointed out with our citing of the Olguin case, is authentication may be established by circumstantial evidence. We don’t need a direct witness to come up and say, “I saw Marc Schaffel sign that document,” or, “I know Marc Schaffel’s signature and that’s his signature on that document.”
You look at the totality of all the evidence before the Court, and see if you can draw a reasonable inference as to whether or not this document is what it purports to be.
Now, we have an abundance of testimony that Marc Schaffel and Michael Jackson were involved in a business enterprise known as Neverland Valley Entertainment, and we found -- 8973

THE COURT: I'm not willing to go there with you.
The problem is that in your points and authorities, I think you represented that Mr. Provencio would testify that he was familiar with Michael Jackson's signature and initials, and that he would identify them on Exhibit 400, but in trying to review the testimony, I didn't recall that.
But --
MR. AUCHINCLOSS: I don't think that was produced.
THE COURT: But going back there, I don't see that in the transcript. So....
MR. AUCHINCLOSS: If that is a predicate to the admissibility of this document, then that would be one of those foundational minor points that we would re-call Mr. Provencio to lay. If that's the place where the Court has an issue. And that's why we requested yesterday that we be able to address concerns of the Court regarding the admissibility of these documents as we normally would be during trial. We're in an unusual circumstance here, because these documents are being discussed at the very end of our case.
THE COURT: Was there any document that I did not admit out of that series that you think you did authenticate that I just missed the authentication? 8974

MR. AUCHINCLOSS: Well, in terms of direct testimony, we did provide evidence from the Bank of -- from the U.S. Bank.
THE COURT: Give me an exhibit number when you're talking so I know what you're talking about.
MR. AUCHINCLOSS: Yes. That would be exhibit number -- let me find it. 418, page three, the million-dollar check. We did ask the U.S. Bank representative about that exhibit, as well as --
THE COURT: 418 and 419 I think was authenticated by the U.S. Bank person who testified.
MR. SANGER: Only as to the pages that are checks. Not as to the other --
THE COURT: Documents.
MR. SANGER: -- documents.
MR. AUCHINCLOSS: That's correct. That's correct. 418-3 and 419-3, page three.
THE COURT: So I would be willing to admit those pages that she authenticated as those documents, 418 and 419.
MR. SANGER: And I would submit that, Your Honor.
THE COURT: Okay. I'll admit the checks, and I'll have the clerk separate the other pages and call -- redesignate the other pages as 418-A and 419-A. The actual 418 and 419 will be the checks themselves.
MR. AUCHINCLOSS: And that would be the only 8975

other documents that we provided direct testimony on.
THE COURT: Well, one of the things, Exhibit 403.
MR. AUCHINCLOSS: Certainly.
THE COURT: I do not think that you have had Mr. Provencio identify that document and those e-mails from between Rudy -- Rudy Provencio and Kathryn Milofsky. Although on cross, I remember Mr. Mesereau raising some questions about those e-mails.
MR. AUCHINCLOSS: There certainly is testimony that Kathryn Milofsky was providing substantial information by way of e-mails to Marc Schaffel.
THE COURT: But I don't think that's sufficient to just dump, then, a bunch of exhibits in if they're not -- and I'm asking you -- I'm asking for argument.
MR. AUCHINCLOSS: Certainly, yes, as I stated before, you can't deny the circumstantial evidence in this case that -- we look at these documents, Your Honor, somewhat like you might look at some numbers scribbled on a piece of paper found in a drug dealer's home that are introduced as pay/owe sheets. Now, there's no authentication. Nobody comes in and says, that's -- you know, that's his handwriting. You don't need that. You don't need to have someone come in and say these are 8976

pay/owe sheets for a drug transaction. You might have some expert testimony to that effect.
THE COURT: I was going to say, I can't imagine letting that kind of thing in without some authentication, but --
MR. AUCHINCLOSS: I mean, in terms of the admissibility of it, it's not as if there's any --
THE COURT: I think we're going down a side street here.
MR. AUCHINCLOSS: Our position is that these documents speak for themselves. They are words that are relevant to the conspiracy, and a conspiracy is a crime of words, in addition to some overt acts. And as we pointed out in our brief, each one of these documents impute either knowledge about facts that are relevant to this conspiracy, motive, reasons why these co-conspirators as well as Mr. Jackson would engage in this conspiracy, the relationship between the parties. For instance, phone sheets with every single -- virtually every single co-conspirator's name on them. I mean, those are coming in because Mr. Provencio testified to it.
THE COURT: I would really try to direct your attention to one exhibit at a time. It's not helpful to me to be doing that. I lose track of what you're saying.
MR. AUCHINCLOSS: I understand, Your Honor, there's a number of exhibits. 8977

THE COURT: I think we're talking about
Exhibit No. 403. That's what I want to talk about.
So I'm saying what is the foundation that you've
laid for 403 to come in. That's what I'm asking
you.
MR. AUCHINCLOSS: All right. If I could
just have a moment, here.
THE COURT: You may.
MR. AUCHINCLOSS: 403. The "Fires Brewing"
file. The Court has previously admitted evidence of
the panic that was going on among the
co-conspirators during this time. There's been
extensive testimony by Ann Gabriel that -- of a
laundry list of problems that confronted Mr.
Jackson, public relations problems. The press was
going crazy. Not only about the rebuttal -- or
about the Martin Bashir film, but a number of other
issues that came up, including Mr. Schaffel's prior
history, the Jordie Chandler release of that -- of
the Complaint over the Internet, issues regarding
the other problems that Martin Bashir pointed out,
such as child abuse or possible child neglect
issues. You name it.
This is being offered as corroboration of
Miss Gabriel's testimony, and as evidence of the
issue of the panic, the reasons for that panic that
were generated and known by the co-conspirators.
Now, it's offered as circumstantial 8978

evidence, because these words, these documents, were found in Martin -- in Mr. Schaffel's home, in his files, in his locked closet, and they clearly show a group of files under an unambiguous heading, "Fires Brewing," that Mr. Jackson had a number of problems on his hands. And the problems were to be addressed by the co-conspirators. That was the purpose of this --

THE COURT: Let me ask you this: Did Mr. Provencio testify about those documents yesterday or the day before?

MR. AUCHINCLOSS: He testified that the phones were ringing off the hooks. That there was --

THE COURT: Did he testify about the "Fires Brewing" documents?

MR. AUCHINCLOSS: No, he did not.

THE COURT: I think I remember him identifying who Kathryn Milofsky is.

MR. AUCHINCLOSS: He did identify Kathryn Milofsky as being a conduit through which much of this information came, including, of course, the original script for the Martin Bashir film way before it was introduced -- played.

THE COURT: Okay. On 404, it seems there was the phone log and then there was a list of contacts; is that right?

MR. AUCHINCLOSS: That's correct. This came 8979

out of the Stuart Backerman file in Mr. Schaffel's filing cabinet. As Mr. Provencio testified, the media was keeping them very busy. This is a list of messages showing contacts from the media, from Larry King, to Good Morning America, Barbara Walters. And this is on February 6th. Again, introduced to show the level of panic that was being inspired by this public relations disaster. Everybody was calling. "Who's that boy that Mr. Jackson is sleeping with?" And it's corroborative of Mr. Provencio's testimony, and it shows --

THE COURT: Was there any specific authentication on that exhibit than -- besides the simple seizure of the --

MR. AUCHINCLOSS: In Mr. Schaffel's home? No. Other than, as I mentioned, the reasonable inferences that you can draw from finding it there, in light of all the testimony. And that's what we're asking for, is that the Court draw a reasonable inference as to what this document is, what it means.

THE COURT: Okay. On 406 --

MR. AUCHINCLOSS: Would you like to address the working group list that follows that, or --

THE COURT: I'm sorry.

MR. AUCHINCLOSS: There are a couple of phone sheets in here. Again, this, as the 8980

authorities noted, provide that evidence of relationship between the parties is admissible on the issue of whether or not a conspiracy occurred. We have a production working group list that shows Ronald Konitzer, Dieter Weizner, Mr. Backerman, Mr. LeGrand, Marc Geragos on the same working group list in the possession of Mr. Schaffel. Now, Mr. Schaffel cannot contact co-conspirators unless he has contact information. Showing that he has their e-mail addresses, their phone numbers, their mobile phone numbers, their addresses is evidence that Mr. Schaffel is working with these individuals. It's evidence of their relationship.

THE COURT: Okay. I understand that.

MR. AUCHINCLOSS: Okay. Moving on to 405?

THE COURT: Yes.

MR. SANGER: Or 406, I think the Court said.

THE COURT: 405 was admitted. 406.

MR. AUCHINCLOSS: 406 is the contract for the FOX rebuttal. It's a $3 million contract. There's been quite a bit of testimony about the amount of money that was going to be made in this particular endeavor. This is corroborative of that testimony. It's -- appears to be on a Hale Lane fax transmittal sheet. We had testimony from Mr. Hamid Moslehi about receiving faxes from Hale Lane. This is identical to all of the other fax transmittal sheets that we seized during this warrant. There is 8981

no evidence or, I believe, reasonable inference you can draw that this document is anything but what it appears to be, a revised agreement of the FOX Broadcasting Company and Fire Mountain Services. And it's offered to show that this was a money-making enterprise, that Mr. Jackson was going to personally profit from it, as well as the co-conspirators.

THE COURT: You're talking about the --

MR. AUCHINCLOSS: Pages 1 through 4.

THE COURT: 1 through 4.

MR. AUCHINCLOSS: Yes.

Now, we have introduced testimony that the Arvizo family was to be included in this FOX rebuttal and the reasons why they were never seen in that rebuttal film.

THE COURT: On that document, that's pages five through nine, right?

MR. AUCHINCLOSS: Yes.

THE COURT: And that's --

MR. AUCHINCLOSS: Five through nine are --

THE COURT: How do we know that Mr. Jackson had anything to do with that document?

MR. AUCHINCLOSS: Well, Mr. Jackson does not have to be linked to every aspect of the co -- of the conspiracy.

THE COURT: But you want to admit it to show his involvement in the rebuttal video, right? 8982

MR. AUCHINCLOSS: We want to admit this document to show that the special was a money-making enterprise, and that -- I mean, there has been quite a bit of testimony, or there was quite a bit of testimony with Ann Gabriel dealing with the issue of the problems with that, how that would be perceived by the media as negative. She felt it should be done without a profit motive, and how her advice was ignored by the team.
THE COURT: Okay. Exhibit 407?
MR. AUCHINCLOSS: Just -- if I may just remark about the remaining exhibits on 406, Your Honor.
THE COURT: Yes.
MR. AUCHINCLOSS: Because there were some additional pages there.
THE COURT: Page ten.
MR. AUCHINCLOSS: And one of the pages is a fax to Michael and Al from Marc, appears to be, with a personal message from Marc Schaffel. It talks about the specifics of the clips, the editing, everything looks good, it's all very positive, shows Mr. Jackson's direct involvement in the second FOX rebuttal -- or FOX film, I should say, as well as, following that, there is the agreement in which the second FOX film was to produce $4 million in income. And we finally have a note from Mr. Jackson signed by Mr. Jackson, care of Al Malnik, that he 8983

authorizes giving the keys to Dieter Weizner at the warehouse for Optima Productions. Shows again Mr. Jackson's direct involvement in these films, as well as his relationship to the parties, particularly Dieter Weizner.
THE COURT: Okay.
MR. AUCHINCLOSS: 407 is offered as a statement -- as statements in furtherance of the conspiracy.
THE COURT: Well, I'm sorry, did you want to -- that's all right. Okay. 407. Go ahead.
MR. AUCHINCLOSS: These are e-mails that were found, I believe -- let me just double-check my notes here -- in Marc Schaffel's "Ronald" file. And that's how we -- just so you know, you can look at the index and see that we've divided these documents up into the various -- we've kept them in the various files that they were found in, so that's the reason why some of the documents do not always have a subject matter relationship, but they do have a relationship of the location in where we found them. This is the "Ronald" file. There are a couple of e-mails in here from Ronald Weizner -- or Ronald Konitzer, excuse me, talking about -- talking to Marc and Stuart. The first one is really just to -- for purposes of showing the relationship of the parties, and their involvement back on February 6 of '03. 8984

The second one entitled “Money,” February 11th, ‘03, is highly relevant. It talks about the money split. It talks about how much money they’re going to get for the FOX rebuttal. It talks about how they’re going to split it up, about how some of it is needed just to pay for that rebuttal, the Jackson -- this goes to Mr. Jackson’s financial crisis. He doesn’t have money to pay for this rebuttal, so he has to generate money just to pay for the expenses. Some of it goes to -- is going to Hamid. The final page is really where you see the breakout.

THE COURT: Do you think the e-mail addresses need to be authenticated in this?

MR. AUCHINCLOSS: Well, the e-mail addresses for Mr. Konitzer are mentioned in the other address documents. I mean, assuming that the address documents come in, there’s circumstantial evidence that they are accurate, correct e-mails.

THE COURT: That being the list --

MR. AUCHINCLOSS: The previous list that we’ve talked about. These are identical e-mails that we have throughout and including the e-mails that are identified in the telephone and contact sheets.

There is -- and the last page, as I said, is really particularly revealing. It talks about $3,200,000 to be produced from the first rebuttal 8985

film. 200 goes to Hamid. A million-five to David's trust account to pay bills due now, and that's because of the vendors that are screaming for their money. $600,000 for Marc --

MR. SANGER: Your Honor, by the way, I'm going to -- I'm going to object to just gratuitous remarks for the press. There isn't evidence of vendors screaming for money in this case. Counsel should restrict his remarks to the Court's inquiry, which is what is the authentication, and not continue to make gratuitous remarks.

THE COURT: Sustained.

MR. AUCHINCLOSS: I'm making the -- sustained?

THE COURT: Yeah. We're really looking at a narrow issue here.

MR. AUCHINCLOSS: Well, I think, you know -- I'll draw your attention to the main thing, is that the -- the $600,000 for Marc, including all production and, quote, "vacation," end quote for Gavin.

THE COURT: What about the e-mail address of Milofsky? How do we know that's her? Do we have someone testifying to her e-mail address?

MR. AUCHINCLOSS: Well, what reasonable inference do you draw from the fact that Rudy Provencio testified that they received an abundance of e-mails from this woman? 8986

THE COURT: I thought you just told me that you didn't have that testimony about e-mails. You had the testimony about the phone calls.
MR. AUCHINCLOSS: No, he didn't identify the individual -- the individual e-mail, but he did say he received e-mails from Kathryn Milofsky, and that Mr. Schaffel and him both received e-mails from her. So I guess, I mean, I'm just drawing a reasonable inference that he says they received e-mails. We look in his file drawer and we find e-mails. There's -- it's not conclusive, but it's pretty close that these would be the e-mails that he received from Kathryn Milofsky.
THE COURT: Okay. 408?
MR. AUCHINCLOSS: 408 is a printout from a disk. It just is offered to show the financial gain that Mr. Schaffel was obtaining through the marketing of the rebuttal film. Rudy Provencio did talk about foreign rights, so this would be something akin to the previous e-mail, which indicates that Mr. Jackson himself was going to benefit from this -- financially from this enterprise, and that there was -- there were additional profits out there. Offered on the issue of motive, to show the perception of the parties that this was a valuable enterprise that they could make money on.
THE COURT: How about 412? 8987

MR. AUCHINCLOSS: Again -- I'm sorry, we're jumping ahead to --
THE COURT: Well, 409 has been admitted. 410 has been admitted. 411 --
MR. AUCHINCLOSS: Is of no great moment.
THE COURT: Right.
MR. AUCHINCLOSS: That's not important.
THE COURT: So 412 was the one I was concerned about.
MR. AUCHINCLOSS: 412. Ann Gabriel, I believe, did lay foundation on 412. She testified that David LeGrand sent her this virtually identical release that was ultimately placed before the Arvizos. He asked her to put "Gabriel Media, Inc.," on it and then send it back. It finds its way into Marc Schaffel's file in various permutations. One with "Gabriel Media," the second without, and then there is a third with "MJJ Productions."
THE COURT: Okay. What about 413?
MR. AUCHINCLOSS: There has been some testimony on 413 that.
THE CLERK: It was received yesterday.
MR. SANGER: You received it, Your Honor.
THE COURT: All right. Thank you.
415.
THE CLERK: 414.
THE COURT: Withdrawn. 414 was withdrawn.
415? 8988

MR. AUCHINCLOSS: These are records that are found regarding the expenses for the rebuttal film. Circumstantial evidence that Mr. Schaffel was in charge of that film. And these records, notably on page four, have references to the Arvizos. And I draw that conclusion from the cash withdrawals that say, “JGSD Trip.” Janet -- I interpret that to mean Janet, Gavin, Star and Davellin trip.
On 225 and 226, there are petty cash withdrawals corroborative of what Mr. Provencio testified to, regarding cash paid out to Vinnie. There are cash disbursements on page six that include $5,000 to Frank Cascio.
THE COURT: Okay. 417?
MR. AUCHINCLOSS: And I would just say that on page 17, there is a receipt which --
THE COURT: You know what I’m asking you, though, not what’s there, I’m asking you what’s the authentication. Your telling me what’s there doesn’t answer that question, so --
MR. AUCHINCLOSS: Well, I’m just telling you about areas of testimony that are relevant to -- that Rudy Provencio did testify about a cash receipt that was signed by Vinnie Amen and that is in that file under page 17.
THE COURT: But he didn’t identify that.
MR. AUCHINCLOSS: He didn’t identify it, no.
THE COURT: You’re saying that’s the one that 8989

he must have been talking about, right?
MR. AUCHINCLOSS: Yeah. I'm drawing a
reasonable inference from the location of that
document in the files.
THE COURT: Okay.
MR. AUCHINCLOSS: This is -- 417 is the --
are the documents -- the first document entitled
"Janet Strategies" located in Mr. Schaffel's files
clearly provides some circumstantial evidence of an
intent to come up with various strategies to deal
with Janet Arvizo and her family. You can read the
document. The same thing with the, quote, "David
case." The strategies are not always consistent,
and they're admitted for purposes to show
consciousness of guilt and knowledge of the criminal
purpose of this conspiracy.
THE COURT: To show whose consciousness of
guilt?
MR. AUCHINCLOSS: The co-conspirators.
THE COURT: Okay. 418?
THE CLERK: You admitted that this morning.
THE COURT: That's already done.
419 is done.
420?
MR. AUCHINCLOSS: 418, we've already --
THE COURT: No, we did 418 and 419, I'm
sorry. 420 is where we are.
MR. AUCHINCLOSS: 420 are the e-mails 8990

amongst the co-conspirators, including Mr. Schaffel. Some of these specifically reference the Arvizo family. They certainly reference the panic that existed at the time.

THE COURT: Were the e-mail addresses authenticated, identified, and how do we know who they came from?

MR. AUCHINCLOSS: The e-mail addresses are -- well, I would submit that if we have an e-mail that is from Melanie at bellyard.com, and we have testimony that Bell Yard is the crisis management team in London that was dealing with Mr. Schaffel at this time and he's one of the parties on the team, that that is circumstantially sufficient foundation that this e-mail is what it purports to be. There's no evidence that these are all fabricated. To the contrary, that this was -- these are all seized in a search warrant.

So this is -- these came out of files that -- the personal files of Mr. Schaffel. So I guess, you know, I'm -- I keep drawing the same reasonable -- I mean, these are my inferences. They may not be yours, Your Honor, but that's where we're going with these.

THE COURT: On 421, that's a contract after the alleged events. Is that --

MR. AUCHINCLOSS: It is.

THE COURT: What would the relevance of that 8991

be?
MR. AUCHINCLOSS: The defense has announced -- and maybe -- well, I shouldn't say that they've just announced it. They have attempted, through the introduction of evidence through cross-examination, to show that Mr. Jackson was an unknowing party to this conspiracy. They, in some respects, seem to concede there was something nefarious going on, but not involving Mr. Jackson. If that is the case, then the continued association with the co-conspirators beyond the conspiracy, even after all of the fallout, would tend to rebut that claim. And we have -- this is just one link in the many links we have that Mr. Jackson maintained his affiliation with Mr. Schaffel, Mr. Weizner, Mr. Konitzer, for months and months and months past the conspiracy. So this was not a situation where some bad things happened and Mr. Jackson then fired everybody.
It also shows the financial motive of the various co-conspirators to continue in their relationship with Mr. Jackson. This is all about money. We don't dispute that among the co-conspirators. They're interested in a financial gain. But the financial gain they are seeking is from the success of Mr. Jackson, not from his fall.
THE COURT: Okay. 422.
MR. AUCHINCLOSS: There was testimony about 8992

these documents. Mr. Provencio did look at them.
He did identify them as the operative documents that
established the loan with Royalty Advance Funding
that bankrolled Neverland Valley Entertainment.
THE COURT: All right. Thank you.
Mr. Sanger, do you wish to address any of
these?
MR. SANGER: Yes. Thank you.
I know we have other things to do, so let me
try to go through as quickly as I can.
I think I addressed 400.
THE COURT: You did.
MR. SANGER: Okay. That takes us to --
THE COURT: 403.
MR. SANGER: -- 403.
One quick correction, and I think it really
helps to illustrate how little foundation there is
for this. Your Honor had indicated that you
believed that Mr. Mesereau had referred to perhaps
something in that exhibit or related to that
exhibit.
If I'm not mistaken, Mr. Mesereau is
referring to something totally different. He was
referring to an instant message communication,
which, although there's advertisements for instant
messages at the bottom of some of those purported
e-mails, they are not instant messages. The instant
message is a realtime exchange where one person 8993

types something and the next person responds, and they go on in, more or less, realtime. And it was not, as far as I know -- and I've looked through it again quickly, it was not one of the documents in the 400 series that had been marked by the prosecution. So there's been no authentication, and this will apply to all these other e-mails, so I don't have to repeat it.

THE COURT: All right.

MR. SANGER: No authentication. We don't know if -- who sent the e-mails, if they were received by somebody in particular, if they were reviewed by somebody in particular, if they were possessed, if anybody had knowledge of it. Most importantly, it has nothing to do with Mr. Jackson's knowledge of anything. There's no indication from Mr. Provencio's testimony or anybody else that Mr. Jackson had knowledge of any of this stuff that's in here. And I'll say that generically so I don't have to repeat it.

There's a way to lay a foundation in a court of law, and it just wasn't done. I don't know if it could be done. I take it, because they didn't do it, they didn't have a witness who could do it. But whether they could or they couldn't, it was not done, and therefore none of these things are admissible.

I'll go to 404. Again, no specific 8994

authentication. The indication is 404 had something to do with Stuart Backerman. And the question is what did it have to do with Stuart Backerman, just like all these other documents. Quite frankly, I've forgotten exactly if it was in a Stuart Backerman file or whatever it was. We now have testimony that there were several people who were in that house, using that house as an office, several people maintaining desks and having phones, having files. How do we know who had what?

The People cannot -- the prosecution can't get up here and say to the Court, everything is some kind of statement that is in furtherance of the conspiracy or it shows the state of mind of a co-conspirator, or some other thing like that, and not identify which, if any, co-conspirator it relates to. They haven't alleged that Stuart Backerman was a co-conspirator. They haven't alleged that Bell Yard was a co -- Bell Yard is a reputable public relations firm in England. And the testimony was is that they were a public relations firm. I mean, he can't say everybody that helps a celebrity with regard to productions of -- or people associated with a celebrity, with a production of an event or a video or a television show, is involved in some kind of a conspiracy, and therefore, even though there's been no proof as to who possessed it or what it is, it must belong to some nebulous 8995

co-conspirator in some giant conspiracy. And that, again, is an underlying problem with some of the subsequent ones, so I'll spend just a moment on that at this point.
In other words, the proper way to prove something is to prove that it -- it was in the possession of and belonged to a particular person; that it was sent by somebody in particular; that it had some significance. It isn't just a piece of paper there. You have to authenticate it. Just the fact there's a piece of paper there doesn't cut it.
The analogy for a pay/owe sheet I think was actually telling. Because if you have somebody who is caught, you know, with the dope in their room and under their bed, and under the bed with the dope is a sheet that says so-and-so, somebody something, you still have to authenticate it. Now, it may not be an issue as to wrote it. If it's an issue as to who wrote it, and whether or not the person who's charged had knowledge and possession of that pay/owe sheet, then it would be a big issue. That's the issue that we're dealing with here. It's an issue as to what Mr. Jackson knew, if anything, about this.
This is a lot of junk that was taken out of somebody's house and thrown in with rhetoric that it's highly relevant. Highly relevant is what the District Attorney wants to make out of it. But that 8996

isn't the authentication. And that's where they're stuck and they haven't laid the foundation.
406, the first four pages are not authenticated as to signatures or significance or who it came from or what happened. It's just a document that's there. The next pages, five to nine, are pages that, once again, we don't know what it is. It's not signed. There's some notes by somebody, the handwriting hasn't been authenticated. Who possessed it, who had knowledge of it hasn't been authenticated. It, again, doesn't link Michael Jackson to anything, because there's absolutely no evidence Michael Jackson had anything to do with it.
Now, I'd remind the Court respectfully that the witness that did testify, the police officer that testified to the seizures I believe is Detective Bonner, said that he wasn't sure which pages were attached to which pages. He didn't know who wrote the numbers at the top until he took a break and was informed they were D.A. numbers. And in fact, he said that, at least as to a couple of the exhibits, it was questionable as to whether the items that were stapled together actually went together.
So we have a problem that the jury would be given a bunch of documents that are stapled together or put in a binder by the District Attorney that are given significance the District Attorney wants to 8997

give them, but there's no authentication that they belong together or have anything to do with each other or were actually known of or possessed by anybody.
Page ten of that exhibit, the words of Mr. Auchincloss were, "It appears to be a fax." That is exactly the problem, is that it appears to be a fax. We don't know what it is.
And then page 11 - I don't want to get ahead of myself here - is another document that -- if I'm in the right place, is another document that's unsigned. And the very last page was offered as a -- as a letter purportedly signed by Michael Jackson. And a lot of discussion was had by the District Attorney about how significant this is, that this shows Michael Jackson had a connection with Dieter Weizner. It's offered for the truth of the matter. You can't offer a document for the truth of the matter. And you can't say this is signed by Michael Jackson just because it's found in somebody else's house or office. You have to lay a foundation. You have to establish authentication. And that's all -- it wasn't done. That's all there is to it.
Go to 407, again, those documents are subject to all the same criticisms. I heard Mr. Auchincloss say they were accurate and correct e-mails. Well, that would be nice if there was 8998

evidence that they were accurate and correct
e-mails. The fact that he says accurate and correct
doesn't make them accurate and correct. It doesn't
make them e-mails, it doesn't make them anything.
No foundation was laid.
Go to 409.
THE COURT: No, that was admitted. 410 was
admitted.
MR. SANGER: Let me --
THE COURT: You need to go to 412.
MR. SANGER: Did I talk about 408?
I think 408 was -- I wrote 409. I meant
408. I'm sorry.
408, was that withdrawn or --
THE COURT: 408 would be your next --
MR. SANGER: All right. I misspoke when I
said 409.
408, this was a document that we were told
came off of a disk, and then as I recall, the
officer said that he printed out or somebody printed
out what was on the disk.
We have no idea who inputted this
information into the disk, who had knowledge of
this. There were quite a number of people at that
house. The fact is it doesn't mean anything. And
the prosecution wants to use it to imply that
somehow Michael Jackson had some interest in the
data on this disk. And there's absolutely no 8999

connection whatsoever with regard to that.
If we go to 412, there was reference to Ann Gabriel. Her name is actually Ann Kite. And once again, these are documents that are found, they're subject to all the same objections that I've already made. Same with 413. In fact, if you put 412 and 413 together, they're for the most part blank documents that are not signed. There's some other things in there, some handwriting. We don't know whose handwriting it is. This is not the way you present documents to the Court.
THE COURT: I did admit 413 already.
MR. SANGER: I'm sorry. Okay. Well -- and evidently, I'm sorry, this a good example of how you present documents to the Court.
(Laughter.)
MR. SANGER: Okay.
THE COURT: 415.
MR. SANGER: Go to 415. Interesting. 415, this is a collection of documents that I suppose there could have been some foundation laid for it. All we have is that they were seized. The prosecution is adamant about wanting to introduce 415, and they do not want to introduce 416, which is a summary of petty cash expenditures for Janet and the children, and is exactly the same except evidently they feel that it doesn't make their point. 9000

We have the same objections to authentication on 415 that we have on the other matters. But if the People were going to successfully offer 415, then upon that, the Court's ruling in that regard, we would then offer 416. If that's an adequate foundation, I think the same foundation was laid for both, whatever it is.
And I did specifically ask the officer about -- some questions about 417. So whatever authentication he was able to give, he gave at least as much as was given by the People for the other document.
420? Actually, the correct discussion I think would be with regard to 420-A, if I'm not mistaken. 420 were the documents that were originally presented in the notebook, and then I believe the prosecution gave us a new set of documents which were marked 420-A.
Is that consistent with the clerk or the Court's recollection?
THE COURT: I'll look at my --
MR. SANGER: While the Court's looking, I think that the -- I think that the idea was that Detective Bonner, I believe, testified that 420-A was a better set.
THE COURT: You're correct.
MR. SANGER: So I assume that actually 420 was being withdrawn by the prosecution, and I would 9001

assume that their remarks pertain to 420-A, not 420.
May I assume that?
THE COURT: I think so.
MR. SANGER: Okay. Thank you. So I'll
respond to 420-A. The offer was these are e-mails
amongst co-conspirators. Once again, that's
relevance, but it doesn't establish the
authentication as to the e-mail addresses, where
they came from, how they got in the file, who saw
them, and so on.
421, I believe this is the -- this is the
particular document, Exhibit 421, that Detective
Bonner said that he couldn't be sure that the first
page went with the other pages. In fact, as he
looked at it, it probably didn't.
And I think if you look at the content, Your
Honor will see that the cover page doesn't seem to
match the dates of the subsequent document, nor does
the cover page have a fax header. So it looks like
somebody stapled a different fax sheet to two other
documents, and that just plain highlights the
problem that we have with these documents. And
that's what happens when you don't have
authentication and the Court's asked to just assume
that if it's there, it's all okay.
Once again, there's a purported signature of
Michael Jackson at the end of that, the very last
page of that document. There are no other 9002

signatures. We don't know if this was a draft or a proposal. We don't have any authentication of his signature, that that is his signature. And I think, as we pointed out in our moving papers, if you look at the various signatures that the prosecution is offering as Mr. Jackson's signatures in this series from 400 to 423, Your Honor will see that there are remarkable differences between some of them. Some of them are similar. But there are others that look totally different. And not that we're asking the Court to do a handwriting analysis, but that's just an example of why authentication is necessary. You can't just assume, based on the fact it's found in somebody's house, that Michael Jackson signed it. Particularly if it's found in the house of Marc Schaffel, of whom the prosecution witnesses have said some pretty harsh things about his integrity. So we have documents that are going to be held against my client in a criminal case that are in the possession of somebody who's been accused of being a liar and not a reliable person. And the signatures don't look the same, and yet the jury is going to be asked to assume that Mr. Jackson signed them all. That's exactly why you need authentication. And we don't have it here.

And that takes us to 422; am I right?

THE COURT: Yeah.

MR. SANGER: 422. And 422 is exactly -- 9003

suffers from the same problem. The only difference is that Rudy Provencio actually did look at these documents when he was on the stand, and said that he believed those were the documents pertaining to this transaction. How did he know that? He was apparently snooping in the file cabinet. He had no direct involvement in preparing these, dealing with these or anything else. And as the Court I think gathered - and more about that in a minute - Mr. Provencio was trying to be a very helpful witness to the prosecution and lied about things that we can conclusively show he lied about. So his testimony should be disregarded.

But if it's not disregarded entirely, at least there's something there. However, it does suffer from all of the other -- the other problems the other exhibits have.

And I'll submit it.

THE COURT: All right. Thank you.

Who's going to argue the motion to dismiss?

MR. MESEREAU: Mr. Sanger is, Your Honor.

MR. AUCHINCLOSS: May I offer one more thought on that, that last one?

THE COURT: Yes.

MR. AUCHINCLOSS: I mean, one thing we could do is to offer defendant's 977 waiver as evidence of his handwriting, ask the Court to take judicial notice of that. 9004

THE COURT: Okay.
MR. AUCHINCLOSS: All right.
THE COURT: What I'm going to do -- I'm going to listen to the motion to dismiss. I have a pretty good idea now, having heard your arguments on the other exhibits, what -- I've made notes to myself as to their admissibility or nonadmissibility. I'm not going to announce those now because we need to move along.
MR. SANGER: Yes, sir.
THE COURT: But I wanted to take care of that before you argued the motion to dismiss so that I would know in my own mind what documents I would be considering, if any were alluded to in the motion.
MR. SANGER: Very well.
THE COURT: So you may go ahead.
Mr. Sanger?
MR. SANGER: All right. We did have that other -- that Doyle motion, which is just -- I thought Your Honor --
THE COURT: The Court will deny the motion for a mistrial and deny the request for specific instructions. Basically I think that Mr. Mesereau, on his cross-examination, adequately covered the area. And I'm going to leave it with that.
If you want to submit, as in other cases, a special instruction in the final jury instructions, I would consider it at that time. 9005

MR. SANGER: Okay. Thank you, Your Honor.
All right. With regard to the motion for judgment of acquittal based on insufficient evidence, excuse me, that was coupled with a motion to strike statements allegedly made by the co-conspirators. Let me argue the main motion first, because I think that -- that would be a consequence of the Court's ruling, although the Court could independently rule to strike the co-conspirators' statements or it could do it first or second, I suppose is what I'm saying.
So let me address the motion for judgment of acquittal.
There are four areas of the prosecution's case that I want to address, and I want to address them in the context of the law that we have already briefed under 1118.1 of the Penal Code, and briefly indicate that that law includes the Court's determination that the evidence is reasonable, credible, and of solid value from which a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt.
THE COURT: Let me ask you -- I read your motion, which you really seemed to be asking me to make some credibility calls on the witnesses, and isn't it true that that's not my job? I mean, that is exactly what I shouldn't be doing, is be the person who makes credibility calls on the witnesses. 9006

MR. SANGER: No, I think that that is
part -- that's why we cited that.
THE COURT: You cited a general jury
instruction, so --
MR. SANGER: We cited the case specifically
of People vs. Allen, 2001 case, which cited --
that's a Court of Appeal case, which cited
People vs. Stanley, 1995 California Supreme Court
case. It all goes back to Jackson vs. Virginia,
which has nothing to do with Mr. Jackson, my client.
Jackson versus Virginia was the United States
Supreme Court decision in which the U.S. Supreme
Court talked about the standard of review and
whether or not a rational trier of fact could find a
defendant guilty beyond a reasonable doubt.
That Jackson versus Virginia instruction has
been used for the purpose of sufficiency of
evidentiary view by appellate courts and it's been
incorporated into the California standard for the
review of an 1118.1 motion for the review of the
evidence under that code section.
And as these cases say, the California
Supreme Court has said that the Court has to look to
see that the evidence is reasonable, credible and of
solid value. In other words, the mere fact that
somebody threw something up on the wall and it
wasn't ruled inadmissible does not mean that the
Court has to defer to it. So it is -- this is, in 9007

fact, different than the kinds of rulings the Court was being asked to make, for instance, on 352 evidence, and some other places where the Court was saying, “Well, I’m not supposed to weigh the credibility, or 1108 I’m not supposed to weigh the credibility.” We’ve had those discussions. The Court, there, we argue -- well, you should anyway, but -- the Court took that position. However, with regard to 1118.1 motions, the Court does consider credibility.

Now, it doesn’t mean that Your Honor sits there and says, “I am going to pretend I’m a juror and I’m going to decide this case based on how I would vote if I would a juror.” But it does mean that this is now the one place where the Court can say the prosecution has put on all their evidence, they’ve rested, they took their best shot, this is it, and a rational trier of fact could not find the defendant guilty beyond a reasonable doubt. The emphasis on “rational” in the case law, all the way back to the U.S. Supreme Court decision in Jackson vs. Virginia, is extremely important. It’s not just words. It’s based on the idea that the Court, as a jurist, a lawyer who’s become a judge and has sat and heard cases - in this Court’s case for a long time - a jurist --

THE COURT: I resent that.

(Laughter.) 9008

MR. SANGER: Or you started early in life or something.
The point of the story is that a jurist, of course, is supposed to be able to look at things dispassionately, and we are supposed to be able to avoid submitting matters to the jury, where a jury, a rational trier of fact, cannot find the defendant guilty beyond a reasonable doubt. So it is a much higher standard. This is not the 995 standard either, where the Court just determines whether or not there's probable cause or a strong suspicion that a crime was committed, that being the standard for 995. This, under 1118.1, is rational trier of fact could not find the defendant guilty beyond a reasonable doubt.
So the Court does have a considerable burden to look at the evidence and determine whether or not a rational trier of fact could look at what just happened here over the last ten weeks, or whatever it's been, and find a defendant guilty beyond a reasonable doubt.
So there are four areas I'd like to talk about as far as the evidence is concerned. And I'll try to go through as quickly as I can, but this is important, so I do want to cover it.
THE COURT: I don't want you to feel compelled, because of a deadline, to hurry. Because I needed that extra time on those 400 exhibits. 9009

So --
MR. SANGER: Sure.
THE COURT: We're going to take our regular break and then I'm going to tell the jury that it's going to be a while, and give you time to argue this.
I didn't mean to reduce either side's time for this important motion.
MR. SANGER: Very well. Thank you.
(Recess taken.)
--o0o--

REPORTER'S CERTIFICATE

THE PEOPLE OF THE STATE )
OF CALIFORNIA, )
Plaintiff, )
-vs- ) No. 1133603
MICHAEL JOE JACKSON, )
Defendant. )

I, MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304, Official Court Reporter, do hereby certify:

That the foregoing pages 8970 through 9010 contain a true and correct transcript of the proceedings had in the within and above-entitled matter as by me taken down in shorthand writing at said proceedings on May 5, 2005, and thereafter reduced to typewriting by computer-aided transcription under my direction.

DATED: Santa Maria, California, May 5, 2005.

MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA BARBARA
SANTA MARIA BRANCH; COOK STREET DIVISION
DEPARTMENT SM-2 HON. RODNEY S. MELVILLE, JUDGE

THE PEOPLE OF THE STATE OF )
CALIFORNIA, )
Plaintiff, )
-vs- ) No. 1133603
MICHAEL JOE JACKSON, )
Defendant. )

REPORTER'S TRANSCRIPT OF PROCEEDINGS

THURSDAY, MAY 5, 2005

8:30 A.M.

(PAGES 9012 THROUGH 9206)

REPORTED MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304
BY: Official Court Reporter 9012

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I N D E X

Note: Mr. Sneddon is listed as “SN” on index.
Mr. Zonen is listed as “Z” on index. Mr. Auchincloss is listed as “A” on index.
Mr. Nicola is listed as “N” on index. Mr. Mesereau is listed as “M” on index.
Ms. Yu is listed as “Y” on index. Mr. Sanger is listed as “SA” on index.


DEFENDANT’S
WITNESSES DIRECT CROSS REDIRECT RECROSS
ROBSON, Wade J. 9091-M 9104-M 9132-M 9144-Z
9146-M 9146-Z (Further) (Further)
9150-M 9153-Z
(Further) (Further)
9163-M 9167-Z (Further) (Further)
9169-M
(Further)
BARNES, Brett
Christopher 9170-M 9176-Z

1 E X H I B I T S
2 FOR IN
PLAINTIFF'S NO. DESCRIPTION I.D. EVID.
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4 889 Photos of Brett Barnes 9191
5 890 Photos of Brett Barnes and Michael Jackson 9190
6 891 Photos of Michael Jackson 9189
7 892 Photos of Brett Barnes and
8 Michael Jackson 9189
9 893 Photos of Brett Barnes and Michael Jackson 9188
10 894 Photos of Michael Jackson 9194
11 896 Photos of Michael Jackson
12 and buildings 9195
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THE COURT: Go ahead, Counsel.
MR. SANGER: All right. May I proceed, Your Honor?
THE COURT: Yes.
MR. SANGER: Thank you.
Just before the break, I indicated that there were four areas of evidence that I wanted to talk about in the context of the law, and I think I was just about to conclude my recitation or reference to the law which we have briefed. And we tried to keep our briefs short, so I'll, with the Court's permission, just make a quick reference to a couple of important legal points.
The four areas of evidence, or the four areas of this case or aspects of this case that I want to talk about are, number one, the failure of the People's evidence in certain regards.
Number two, the fact that what resulted was inherently improbable and not credible.
Number three, the effect of the 1108 evidence, not only its nature, but the effect and the potential for causing a jury not to determine the case in a rational fashion.
And number four, willfully false statements and the effect that that should have on the Court's analysis of the prosecution's key witnesses.
And I do this in the context of all of the counts. But in particular, to start with, the 9016

conspiracy count requires that there be proof of two different elements that require specific intent. First, that there is a specific intent to agree or conspire. And second, that the intent to commit the -- there has to be specific intent to commit the offense. So there's actually specific intent required to prove both of those elements. Those are the intent elements. Obviously there are other elements. And that specific intent has to be the specific intent of the defendant, Mr. Michael Jackson in this case, not a nebulous intent that maybe one or more of the alleged co-conspirators might have had at one time or another in doing whatever they were doing.

I also will refer to the "witness willfully false" instruction, which is a CALJIC instruction, of course. But it is reflective of the law, and it's something that the -- a rational trier of fact would have to take into account, and that is, when a witness is willfully false in one part of his or her testimony, it is to be distrusted in others. And I won't read the whole thing. The Court knows the rest of it. I think that has a very significant impact on the evidence in this case.

So if I may refer now to those four areas of the People's case, and I'm going to do so -- even though the Court's given us additional time, I'm going to try to do so in horseback fashion, because 9017

Your Honor has sat here for the same ten weeks we did. There's no point in going over every single thing. But there's some, just, points that I want to cover that hopefully will make the ultimate point here, that I believe a judgment of acquittal is not only appropriate, but is really required in this case at this time as to all of the counts.

First of all, the prosecution indicated in its opening statement it was going to show certain things. The evidence that was actually put on, the People's witnesses that came in had a tendency to self-destruct. And I don't mean to be -- to be gratuitous in a negative remark, but I think it goes without saying, or it can't be escaped when I say that some of the witnesses got on the stand and testified either on direct or cross-examination in ways that were absolutely antithetical to what the prosecution was attempting to prove.

We had Cindy Bell, who is the flight attendant on the flight, who was on her feet the entire time on that flight, saw no molest, saw no children drinking alcohol.

We had Jesus Salas, who said he delivered wine and four glasses, but on cross-examination said, yeah, he delivered -- he delivered sodas as well.

So the "smoking gun" evidence that these witnesses were supposed to present just didn't come 9018

through. And these are -- again, are examples.
There was much made out of the scripting of the Janet Arvizo testimony. And earlier versions of stories indicated that witnesses were going to say that the Janet Arvizo and Star, Davellin and Gavin Arvizo interview that was filmed by Hamid Moslehi was scripted, and you could see the script and it sounded terrible the way it was said. And then there was going to be evidence that, well, not only that, but this is part of the modus operandi of this group of alleged conspirators. They script everybody and make them say things, "And we'll prove," they said, "that by bringing in Debbie Rowe."
And of course it was conclusively shown so far from the evidence, and where we are at this point, there was no script for the answers of Debbie Rowe. She got on the stand and said there was no script. The prosecution tried to impeach her as to whether or not she thought Mr. Jackson was a good father based on some remark she made a year ago when she admitted she was irritated with Mr. Jackson and contemplating a family law matter.
But they didn't impeach her on what they put her up there for. They put her up there, they made the offer that she was going to testify and show that this was the modus operandi, to script out the answers to questions, not just the questions, and 9019

that evidence did not exist. It didn't happen.
Similarly with the Arvizo situation. These are professional interviews that were intended to be used on national, international television. In fact, Maury Povich did a show that was professionally produced. There was reference to that. The Court has not -- the jury has not seen that. The Court has not seen the show in the context of the evidence at this point where the prosecution rests, but you've heard testimony that that happened.
It would be idiotic for an interviewer to go into an interview and not have questions scripted out to cover during the course an interview. So this turned out to be a big nothing.
Mr. Moslehi confirmed that there was no script. In fact, he felt that Janet Arvizo was sincere in her answers, and even gave her money at the end of it because he was so moved by her tale of woe and the world that she portrayed.
And they had other witnesses. They put Brian Barron up, who turned out to be a police officer, who was a sworn peace officer the entire time he was working at the ranch, or became a sworn peace officer shortly after he started, was there during all the relevant times. Never saw anything improper.
And those sorts of witnesses that were put 9020

on by the prosecution to show that terrible acts occurred or something was going wrong, it turns out, just didn't do that, and couldn't do that. And when they got up to tell the truth under oath, they told the truth. Many of them had told the prosecution exactly that before they were called. There were several other witnesses, but I don't want to take the time to go over all of the witnesses. I use those as examples of the kind of failure of proof that has occurred in this case.

The second area is that if you look at the entire People's case to this point, it is inherently improbable and not credible, and -- excuse me. Sorry.

When you look at the -- at the law that we cited, the Allen case, citing the California Supreme Court case of People vs. Stanley, credibility is part of the call the Court has to make at this time. It isn't -- as I said, it's not a matter of sitting as a juror and usurping their function and saying, "This is the way I would call it." But it is a matter of determining whether or not a rational trier of fact could believe these stories.

In that regard, under the category of inherently improbable and not credible evidence to this point, we'd ask the Court to look at the timeline. The timeline is inherently preposterous. And this goes to the -- to the other counts besides 9021

the conspiracy count as well. And in particular it goes to that.
Look at the allegations that everybody -- if you listen to Mr. Auchincloss's summary even trying to introduce exhibits, everybody, in his words, was in a panic. I don't think it shows a panic. It shows people were excited about getting some kind of video out because they thought it would help Mr. Jackson, they thought it would help their own business interests. Sure, that's not contested in this case.
And what's not contested is that at that time, at least during the course of February, it became obvious that Janet Arvizo was not a very stable person. No matter how you look at this evidence, it became obvious that she was showing signs of being somewhat unstable in one way or another. And we can talk about that in more detail, but let's just take the big picture.
It was not clear what her agenda was. And it was known that her boyfriend, Major Jackson, was calling and asking for money, more money than a college education and a house. It was clear that other things were going on.
It is just inherently improbable that anybody - anybody - and I'm not suggesting for one second that Mr. Jackson would do such a thing, but it's inherently improbable that anybody would choose 9022

the moment somewhere late in that scenario in March to say, “Well, why don’t I molest this child.” I mean, it just makes no sense. It makes no sense. It’s inherently improbable. Secondly, what’s inherently improbable about the timeline is that Janet Arvizo and Major Jackson, on at least one occasion, went to visit Attorney Dickerman, maybe two occasions. Janet Arvizo visited him several times. She visited with Jamie Masada. The children visited with Attorney Dickerman. This occurred in April, I think, for Dickerman. April, May, on into June. They eventually go to Attorney Feldman sometime in April and into May. On all of these meetings with all of these people, there’s never an allegation of molest. The molest allegations come up only after they’re sent to Dr. Katz and only after they see Dr. Katz, after Janet Arvizo talks to him a couple times, and then he sees the children late May and early June, and then the lawyers, Dickerman, Feldman, and Katz meet and then they decide to go to Child Services at that time.
Thank you.
So the -- it’s inherently improbable that this -- that this supports a molest charge or a conspiracy charge.
But the Court also has to look at this in the context of what’s already come in about Janet 9023

Arvizo's modus operandi and the modus operandi of this family. On at least two other occasions she followed the exactly the same scenario, and that evidence has already come in. It hasn't come in in full force yet, but it's come in sufficiently in the conclusion of the People's case that the Court can consider it.

The J.C. Penney's case. It came in through her testimony that she first made claims, not right away, but months later, that she was assaulted and falsely imprisoned, and then was -- from the testimony we had, toward the end of the statute of limitations, she comes in and makes allegations of sexual assault, which ultimately there was some testimony about that in the deposition.

She eventually settles that case.

The same progression occurs over time with her ex-husband. Right -- the evidence is there.

And from the evidence you have, you can put two and two together from the dates that were there. Right after she settles the case at a mediation with J.C. Penney's, but before she and her husband have decided who's going to get the money, she accuses him of assault and imprisoning her and her family.

Later, and the evidence is there, just before the money is finally going to be divided, while they're still fighting about it, she accuses him of sexual molest. 9024

1 The same pattern that occurred here. As
2 things progressed, you go from assault, to
3 imprisonment, to sexual molest.
4 This -- that evidence makes it highly
5 improbable in and of itself that just somehow, out
6 of all of the people of the world, these people are
7 going to be victims of Michael Jackson.
8 The next point in this category of the
9 highly improbable case is that obviously, as the
10 Court's heard, this is a family who is taking
11 advantage of a lot of benefits of being associated
12 with Mr. Jackson from February through March of
13 2003, and those benefits include the shopping
14 sprees, the body waxes, the nails, all the other
15 things particularly that Miss Arvizo had admitted
16 to. And they're staying in hotels, they're doing
17 all sorts of things that are just inconsistent with
18 being imprisoned.
19 It's highly improbable because they claim
20 they escaped three or more times, depending on how
21 you count it, from Neverland, whereas they came back
22 each time. They were sent in a Rolls Royce the
23 first time that was checked out, and everybody
24 checked out at the gate. There was nothing secret
25 about it.
26 Sure, that may have made people nervous that
27 were trying to put together a rebuttal video because
28 they're hoping that this family is going to 9025

cooperate and they're hoping they don't go to the tabloids and sell a salacious story. They're hoping they don't turn on them one way or another. And it turns out their hopes and their fears in that regard were well-founded, because that is ultimately what happened.

But the escapes and the return and the escapes and the return are just improbable, highly improbable, and not credible.

All of the Arvizo family members, although it seems it was a long time ago now, but when they were on the stand, I think the Court recalls that they had incredibly selective memories. They were very able to recite some rote facts that were the core of their claims against Mr. Jackson, but they couldn't remember much of anything else, including who they met with recently and so on.

So, on the sexual offense charges, it's inherently improbable and there is not credible evidence of those charges.

When I get to "witness willfully false" testimony at the end, I'm going to cover some more points on that, but for now, I think it's safe to say the Court heard all that evidence, it's not credible, it's inherently improbable.

On the conspiracy charges, there's just a total failure of proof, so I'd say it's more than inherently improbable and not credible. There's 9026

just a failure of proof in tying Mr. Jackson into any kind of a conspiracy. There is nothing to show his specific intent to agree to -- there's no agreement and no specific intent to agree to commit a crime, and there's no specific intent that that crime actually occurred. You just don't have him in this.

You've got witnesses called by the prosecution who basically -- even Rudy Provencio, who was their blockbuster witness, who basically says Mr. Jackson was not involved in things. You had Debbie Rowe, who said people would take advantage of him. You've got witness after witness who's testified that Mr. Jackson is a creative genius. He is -- he does a lot of things very well. You have from time to time people say he's a very good businessman, but -- and I don't mean to say that he's not, but that doesn't mean that he has hands-on control of what people are doing. And in particular in this case, there's no evidence that he had hands-on control of anything with regard to this alleged conspiracy.

I don't think a conspiracy has been shown even among the other people, but this is a case against Mr. Jackson. And there's been nothing shown that's credible to establish that he is a member of a conspiracy. He was a person who had all sorts of other things going on in his life. Certainly he 9027

would have been aware of this Bashir tape. He would have been aware of some things, but -- in general one might assume that, but beyond that assumption, there's no indication that he was running anything, directing anything, or doing anything.

Now, the third area of evidence I'm going to talk about is the 1108 evidence. And I want to talk about that in two different regards.

First of all, the 1108 evidence was highly improbable. But secondly, it has the danger -- even if it was credible evidence, it would have the great danger of causing a rational trier of fact to not hold the prosecution to the standard of proof required in this case, proof beyond a reasonable doubt of the current offense. And that is the danger of 1108 and that's -- that's something that needs to be addressed.

In that regard, every witness that was called with regard to the 1108 evidence either sued Mr. Jackson for money, sometimes -- never successfully, but sometimes settling, other times being blown out of the water rather dramatically, or they sold their stories to the tabloids or the tabloid television shows, or they had a book deal, or in some cases like Adrian McManus, Chacon and Abdool, they had all three. They did a book deal with Mr. Gutierrez. They did tabloid -- selling of their stories through Splash, to Star Magazine, and 9028

elsewhere. And they had one of their members appear on Inside Edition, all for money.

The other ones, as the Court has heard -- I won't go through every witness, but as the Court has heard, everybody has been involved in that. Out of the literally thousands of people whose lives intersect Mr. Jackson's during that period of time -- and we've heard about that. He has -- you know, he had 100 employees or more, maybe not all at one time at the ranch, but over that period of time certainly he had at least that many. He's had countless friends and relatives and other people who have visited the ranch, guests of all sorts. Obviously he's had all sorts of connections with people in the music industry, and so on. And there's been some testimony about other celebrities with whom he's friends. And yet who comes forward in this case under 1108 but the Abdools, McManuses and Chacons, who sell their story and the other witnesses who sell their stories.

Phillip LeMarque, who was out there bidding and admitted that he was told, "Well, if you can do better about the story it would be worth more," his answer is, "Well, I was just playing along," when he was asking for $500,000.

So you look at that evidence and it's very, very weak and very suspect evidence. I realize that it met the burden, that the Court determined it met 9029

the burden. I can't concede anything, as you know, Your Honor. But the Court concluded it met the burden for 1108 and made some cuts and calls as to what could come in. But that doesn't mean that it makes the cut when it comes to being determinative so a rational trier of fact can find a defendant guilty beyond a reasonable doubt.

More importantly, as I indicated at the beginning of this segment of my argument, this creates a high risk that a false conviction could occur. Because the 1108 evidence isn't really probative on anything except propensity, and that's what it's brought in for. There's minimal 1101 evidence. But it's really 1108 evidence. It's only on propensity. And that means that the jury then is told, "You can conclude that this defendant has a propensity to do these sorts of things."

If there's a total failure of proof, and there's a lack of credible, reliable evidence that could persuade a rational trier of fact beyond a reasonable doubt on the charges that he's sitting here facing, there's a lack of that kind of evidence, there is a high risk that that kind of 1108 evidence can cause an emotional reaction rather than a rational reaction. So you risk that the jury could -- an emotional jury could find the defendant guilty as opposed to a rational jury or a rational trier of fact. 9030

1 And I don't mean to insult the jurors, but
2 that's precisely why the Court is asked to entertain
3 an 1118.1 motion. It's because the Court can sit
4 here more dispassionately and look at the evidence
5 and make the kinds of distinctions that we talk
6 about when we talk about the law in this area.
7 Whereas the jury, as much as they're going
8 to be instructed and as much argument as there's
9 going to be, this is their one case and they're
10 going to sit here and it's going to be very
11 difficult for them to make that cut. So it's all
12 the more important in a case where 1108 evidence has
13 come in to -- for the Court to make a careful
14 determination on 1118.1 as to whether or not this
15 case should make the cut and go to the jury.
16 And I realize -- and I've got to
17 parenthetically insert this somewhere, so I'll do it
18 here. There's no question this is a hard call. And
19 the Court has made hard calls throughout this whole
20 case, and it's a hard call.
21 But I think we have to look at it and -- as
22 I'm sure the Court is doing, and I don't mean to be,
23 you know, insulting in any way to bring it up, but
24 we all have to remind ourselves, it doesn't matter
25 if this is the Michael Jackson case or any other
26 case, any other person sitting in that chair,
27 whether there are cameras out there or there are not
28 cameras out there, whether there's a lot of press 9031

going on about this or not. The fact of the matter is, as a friend of mine used to say, it's balls and strikes, and the Court, of course, has to call it.
And when you look at this, one has to wonder -- after looking at those first three categories of the case that I just talked about, one has to wonder would this case have ever gone anywhere like this were it not for the fact that Michael Jackson was the defendant.
How many -- and I don't want to refer to other cases, but I think it's reasonable to raise the question as to how many cases, murder cases, death penalty cases, do you have nine fingerprint technicians and experts working on fingerprints? How many cases do you spend the kind of resources and the time, and bring people in, try to find anybody who will come in and say anything to try to put together a prejudicial case, if not an actual legal case of the elements against a defendant?
So having said that, Mr. Jackson, as I said before, is not only -- you know, he's entitled to no more, but no less respect than anybody else in this regard. And the Court also has to look at it and say, "Well, wait a second. All of these resources have been spent and where are we?" We're nowhere in this case.
Now, the last category that I want to talk about I think makes the Court's decision a little 9032

easier. And I hesitate to use that word, because I suspect there's nothing easy about the Court's determination. But if there is -- if there's any way to make it less hard, I think this does, because as we have briefed and as I have alluded to at the beginning, if a witness is willfully false, the Court can disregard or the trier of fact can disregard the entire testimony unless the overall evidence persuades the Court of the truth of their testimony.

And we have witnesses who have committed perjury on the stand, who were put up on that stand, and who got up there and lied. And I'm not just arguing this. I'm going to point out, through a few witnesses, where I believe the evidence conclusively shows that there are lies. And that anybody who looked at this case from any aspect, whether it be the jury box or the bench or the counsel table, would have to say these people have been willfully false. And if the key witnesses have been willfully false, and the other witnesses that were put on have pretty much self-destructed to a large extent, what is this case all about?

I think the Court has to look at it and say there is not credible evidence at the end of the day supporting the prosecution's theory of this case, and therefore an 1118.1 motion should be granted as to everything. 9033

Let me refer to some of the “witness willfully false” statements. And I chose statements that I think will be noncontroversial. I say that, and we’ll find out if there’s a controversy, but I tried to pick some of the statements that are just so clearly false that there really isn’t an argument about it, or there shouldn’t be an argument about it.

Let’s take Gavin Arvizo to start with.

One of the statements that was so clearly false, not a close call at all, is he got on this stand in this court and alleged that Michael Jackson told him that he had to masturbate because if boys don’t masturbate, they get to a certain level and they may rape women.

Now, we know that’s false, because I believe it was Sergeant Robel -- and I was going to go check, but I believe it was Sergeant Robel who was on the stand, and I asked him, “Did you ever hear that statement before in this case?” And he said, “No.” And then I asked him if he had interviewed Gavin Arvizo previously, and he said, “Yes.” And who did he attribute that statement to? And it was his grandmother. And I believe we brought out that it was -- that’s what he also said at the grand jury.

Now, this isn’t something that innocent misrecollection may cause a witness to just, you 9034

1 know, make a little mistake on the stand. This is
2 something that somebody says when they are lying.
3 And that's why we have the "witness willfully false"
4 instruction and that's why, when you look at these
5 willfully false statements, at the end of the day,
6 the only rational thing that anybody can conclude is
7 the People have failed to prove their case beyond a
8 reasonable doubt.
9 Look at the changed dates of the alleged
10 incidents. Gavin Arvizo at first said it was from
11 February 7th on. And what happened was, as the case
12 progressed, rather than memories fading, memories
13 got much more specific in all of these prosecution
14 witnesses, these key prosecution witnesses. And
15 they got more specific in a way that helped the
16 prosecution get over hurdles.
17 What happened, as we know, is that nobody
18 had the Bashir tape. Nobody had the Brad Miller
19 tape-recording. And the Arvizos free-wheeled and
20 said, "Hey, this is the way everything was," and
21 made their statement.
22 As this came out, all of a sudden the
23 prosecution did what they should have done, and I
24 agree they should have done: They took the tape and
25 they showed it to these people, and said, "What do
26 you have to say about that?" Okay.
27 Well, for one thing, what they did is, they
28 decided to move the dates. So they moved the dates 9035

to the point where it happened at the end of the stay. And now, from the evidence that the Court has before it, and including travel records and logs that were just admitted by the prosecution, it's clear that Mr. Jackson was there only a very brief period of time during those days in March when the Arvizo family was there. But they moved the dates. It's willfully false.

As I alluded to the change in testimony with regard to the tapes, remember that, until the prosecution had these tapes, they had no idea that these people had gotten up there and said, you know, "Michael Jackson is a wonderful guy," and "Everything was fine and nothing happened," and "We're happy," and, you know, "We wish him the best and we love him and he's like a daddy," and everything else.

They show them the tapes and what happened?

This came out in cross-examination. Each one of those Arvizo children said that what they said on the tape was false and they said Dieter made them say it. And Janet embellished on that, which I'll get to in a moment, but they said Dieter made them say it. Gavin himself said, two places, 99.9 percent of that tape was false and Dieter made him say it.

That's a witness willfully false. It's a witness willfully false. And we know that, why? 9036

Not only because it's all inherently improbable when you watch the tape and they're goofing off and they're laughing and they're saying whatever they're saying, but we uncovered the cards that were sent by the Arvizos.

And I'm sorry, I don't have the exhibit number right here, but Your Honor remembers the cards that were sent.

Why were the cards sent? They were sent in 2001 because Gavin had recovered, and Michael Jackson was no longer at that point inviting them to the ranch. Mr. Jackson had other things to do, I'm sure. But he wasn't inviting him to the ranch.

They claim they had his phone number or a phone number. They had to call Evvy Tavasci, which everybody else has to call, as we found out, who everybody has to call. They didn't like that. They didn't have communications, so they started sending these over-the-top cards. And these over-the-top cards had exactly the same language that they used in that video that they -- that Gavin has now claimed is 99 percent false because Dieter told him to say it.

So it's a witness willfully false. And I'm sorry, I mean, we can feel sorry for this young man because apparently he had these serious health problems, and everybody's glad to see when a child recovers and so on. But the problem is he's making 9037

serious felony accusations against my client and he's lying. And he's lying. That's all there is to it.

We know that the cards, by the way, were sent for what? They were sent for gain. They wanted to get back into Michael's world. That's when they weren't able to do it. We know that cards were sent to Louise Palanker that were just the same kind of cards, that called her "Mommy," "Wheezy," and made the same kind of things. What happened? Those were sent after she said, "You can't have any more money." It's the same pattern.

So they got on this tape and they said over-the-top things, not because Dieter told them to say them or anybody else. It's because that's what they do when they want to get into somebody's world and they want to gain something from them, whether it's money or just being a part of the celebrity or whatever.

But what we do know from that is that when he got up there, he made that statement, that it was 99 percent false, on the stand. He said, "Well, I didn't really mean that." "Well, maybe I meant it." That's willfully false. It's willfully false.

Dieter didn't tell him to do that. We know that. We can't look the other way and say it's close enough for government work. These things are too big. 9038

Gavin lied about what happened on the plane.
We had Cindy Bell, who came to testify. She was a
People's witness. She was clear. She was on her
feet the whole time. It was a small plane. She
said it would be like the front part of the jury box
to where she was there. She walked back and forth.
She could see everybody. She was constantly worried
about their well-being. She stayed on her feet the
entire trip. Nobody ever said she sat down. The
mother was there, Dr. Farshshian was there. We had
the testimony that the security guard was there.
Other people are there.
It's inherently improbable, but Cindy Bell
makes it very clear that the testimony in particular
was false. Gavin wasn't drinking alcohol. Gavin
was obnoxious when he got on the plane to start
with, and remained obnoxious throughout the flight.
He threw food at the sleeping doctor, which was kind
of a humorous picture, but it shows that the
testimony of these people in this case, Gavin in
particular, is willfully false. Can't get around
it.
So on Gavin, if the statement attributed to
Michael Jackson to try to convict him of a felony
that he had routinely said in the past was what his
grandmother told him, just taking that one statement
alone, I don't see how any rational trier of fact
could say, "Well, let's regard the rest of his 9039

testimony as truthful."
Going on to Star, claiming there was wine in the Coke can because he saw red around the rim. The only problem was these kids had some core facts they got right or they got consistent with each other, but they didn't have some of the other facts. All the other testimony was that Michael Jackson had white wine in his Coke can.
Star Arvizo denied that he ever pulled a knife on Kiki Fournier. Your Honor heard Kiki Fournier. She was called by the prosecution. She said the kid pulled a knife on her. I mean, it's -- that's not something that is just you don't remember.
And then he lied about what happened on the plane as well. He lied about where he was sitting and he lied about all sorts of things. But certainly the Cindy Bell testimony makes it clear that he was lying.
So we have witness willfully false, Gavin and Star.
Davellin had some other issues.
And again, I want to emphasize, there are lots of things that I disagree with in the testimony, I think maybe the way the testimony indicates that these people are lying in other regards and it just didn't happen. I mean, don't get me wrong, but I'm just picking out these 9040

1 specific willfully false episodes.
2 Look at Davellin. She lied. She said she
3 stayed in the guest cottage with her mother, and her
4 mother didn't want to leave, so they cowered there
5 and they stayed there. I forgot her exact words.
6 But she was imprisoned with her mother there in the
7 guest cottage, in the Unit 4.
8 And what happened? It turns out they
9 brought the police officer on, sworn police officer,
10 Officer Barron, who moonlighted there. He said not
11 only did the gate logs reflect that she was out at
12 the theater staying with Marie Nicole, but I asked
13 him, "Do you remember that?" He says, "Oh, yeah, I
14 remember she was out there. She was hanging out
15 with Marie Nicole. She was out there at the
16 theater. That's where she stayed." That's not
17 cowering in her room with her mother. That is
18 witness willfully false.
19 They are trying to convict Michael Jackson
20 and they have the assistance of the prosecution
21 doing things like bringing in this 1108 to try to
22 make their otherwise absolutely fantastic stories
23 seem more saleable to a jury.
24 Davellin also said -- and this is a witness
25 willfully false. That's why I pick it out. She
26 also said her brother was a sweet, nice boy who
27 never had problems until after they left the ranch
28 at the end, in March of 2003. 9041

There was clear evidence from people called by the prosecution, from a teacher and an administrator, who went through the records and summarized everything else that was in his record, that he was completely out of control. He was profane. He was obnoxious. He would disrupt class. He was actually kicked out of class repeatedly prior to 2003.

So this idea that she was going to get up and sell the product here to this jury that her brother was a sweet, nice boy and Michael Jackson caused all this, and therefore he should be convicted of child molest, is a witness willfully false on a material issue. Forgetting, again, about all the other details of her testimony that don't match with reality or other evidence in their arguments, that's just clearly refuted.

Then we go to Janet Arvizo. And we can spend forever on Janet Arvizo, but I won't. I'll just hit some of the highlights of things that are clearly a witness willfully false.

I mean, anybody who saw her affect in the courtroom would have to conclude by virtue of her affect alone and the glib way that she tried to testify and the way she tried to add things whenever it suited her purpose, and so on, was the testimony of somebody who wasn't telling the truth. But look at some of the particulars. 9042

She claimed the entire Bashir tape was scripted. Every single word. She said she made three mistakes. She said something about God -- I forgot what the three were. But there were three little mistakes. Otherwise, it was absolutely scripted.

We got to get real. I don't care whose case this is. That witness was bizarre. And she says it was scripted. She said the outtakes were scripted. The hand-holding, the laughing, the gang signs, everything was scripted, she claimed, when it's clear -- I mean, you'd have to be an idiot to believe that. Excuse me for putting it that way. But I mean, it's clear when you look at the tape the first time -- as Your Honor mentioned, we saw the tape many times. When you look at the tape the first time, one of the things that strikes you right off the bat is she doesn't know the camera's on and she's laughing and fooling around and giving suggestions how to make this look better and telling the camera people what to do. And she's claiming now on the stand that that was scripted, she was told she had to say all those words and she memorized it.

Now, the memorization part of it. I'm just taking the real big whoppers that you can really pin down so we don't have to talk about everything else. The memorization part of it is so clearly false. 9043

She said the Brad Miller interview was all from the heart and what she said to Brad Miller was all true. The Brad Miller interview included a lot of the exact same kind of language and it was -- they weren't the exact same words. Some of the same words were used, but it's the same phraseology, it's the same thoughts, it's the same this and that, that she had in the -- conveyed in the rebuttal film with Mr. Moslehi.

The Brad Miller interview was on February the 16th. The rebuttal video was February the 19th at night, going into the morning of the 20th. Probably the camera started rolling right around midnight or so, okay?

She said, when she was asked, how could you have memorized however many hours that was of conversation, including outtakes and giggling, and doing that -- I mean, that takes a lot of rehearsal. How did you do that? She said she met with Dieter ten times a day, who coached her and had the script, and she memorized every word, except for the three words that she got wrong.

Okay? Inherently improbable to start with. But it's also just absolutely bizarre. I'm sorry to laugh, but it's just so bizarre, because from the 16th to the 19th, she's staying at Jay Jackson's house. She didn't see Dieter between the 16th and the 19th. The only time that she would have seen 9044

Dieter was from February 6th, when she said she
briefly talked to him in Miami, and then from
February 8th, after everybody returned on the 7th
from Miami to the ranch, the 8th, 9th, 10th, 11th,
when she went out and got her body wax and then had
Jesus Salas drive her home in the middle of the
night in the Rolls Royce.
So is she claiming that we should believe or
any rational trier of fact should believe that she
was coached ten times a day on the 8th, 9th and 10th
and 11th, took her out for a body wax, and then
forgot it all. When she talked to Brad Miller, it
was from the heart, and then came back on the 19th?
Or are we to believe that this happened between the
16th and the 19th when she -- when this was scripted
and she was given every word? It's just
preposterous.
So she's a witness willfully false, clearly,
on these issues, and I don't mean to, by taking
those examples, to ask the Court not to think about
the big picture. This is one of the most clearly
deceptive witnesses that has ever appeared in any
court.
Look at the testimony about the -- what she
called the leg wax. We'll give her the benefit of
the doubt for the purpose of the end of the People's
case here. She gets a leg wax on 2-11. She knows
that's coming up. And a number of the prosecution 9045

witnesses did this. They knew something was coming up, and so they tried to head it off at the pass. And she knew this was coming up and she raised her hand, as I recall. I was sitting there, and I thought, “What’s happening?”

But she raises her hand and said something. “Oh, I paid for this. I paid for this.” And she wasn’t asked. She just was volunteering this. And how did she say she paid for it? She said the plastic bag that was tied onto her luggage handle had gotten lost on the Xtra Jet flight, and therefore somebody owed her money for her shoes that were in there. And so she considered that Michael Jackson paying for her leg wax was, in fact, her paying for the leg wax because she lost her plastic bag.

Besides that just being improbable, the way she did it, it was clearly lying. Clearly lying. It had no relation to reality, no relation to the other evidence in the case. No relation to her own internal testimony. It was just an effort to lie to try to persuade this jury that Mr. Jackson should be convicted.

She admitted that she lied under oath in the J.C. Penney case. She lied about had what happened on the plane. It’s clear from Cindy Bell’s testimony and everybody else’s testimony, it just doesn’t match up. 9046

As we were precluded from going into -- and I understand the Court can't consider it. I suppose the Court can't consider it. I won't concede that, but for the sake of this argument I will concede it, without conceding the case, whether the trier of fact can consider her taking the Fifth adversely to her, even the Court doesn't do that, and we didn't get into -- directly into the welfare fraud allegations through her testimony. Her husband, Jay Jackson, took the stand and, said, "Yeah, I had" -- "I had base pay." And we all know, base pay is just the start for the military. After you get all the allowances, housing allowance and all that, his pay is 5,000 a month. He's depositing her welfare checks into his account. He said that. Clearly this is a person who's not telling the truth.

Now, as I say, the rest of her story is inherently preposterous. But one of the things that's not just preposterous but it's obviously a witness willfully false that recurs throughout her testimony, and so I select it just to use as a further example, is that she claimed that she was imprisoned and couldn't call 9-1-1. And yet, once all the telephone records come in, and they're in, for instance, from the Calabasas Inn, she said -- in her direct, I believe, she admitted she called her mother. She called Jay Jackson routinely from Calabasas. She called Aja Pryor from other 9047

locations, including the ranch. She called Jay Jackson. She called other people. She talked to Aja Pryor numerous times. She was able to meet with her lawyer, Mr. Dickerman. Was able to meet with Jamie Masada. She was able to go to all sorts of restaurants, do all sorts of other things, go in and get documents from the federal building where there are all sorts of federal officers. She had her lawyer send her her divorce papers. I believe she indicated that's where she got them from, so she could get her passports. She met with her lawyer in court.

She had every opportunity to talk with somebody or to make that 9-1-1 call. Louise Palanker said that she called and said something to the effect that -- Miss Palanker said she called and said, "Well, can I come over?" And Miss Palanker didn't want her to come over for -- using some good judgment. And at that point she says, "Well, maybe I could meet you tomorrow at the mall." And any rational person will say, "Well, wait a second. Meet at the mall; what's the story."

And Miss Palanker said -- I asked her, "What do you mean?"

"She said, 'Well, they let me go shopping.'"

I mean, that's not a person who's falsely imprisoned. That's a lie. These are just plain lies. 9048

Now, the Court can speculate as to why she was lying. I mean, there is certainly some cross-examination about the fact that she didn't want to be separated from Michael Jackson. And there's a lot of other things going on in her life that you could put together to see how inherently improbable her testimony is; for instance, why she would have this wax, and then Jay Jackson calls, and then she calls him back, and then all of a sudden she decides after that, when he wasn't able to get ahold of her while she's having her body wax and whatever else she's doing there, that she tells him, "No, everything's okay," and she's got to leave right away. That's not escaping from the ranch. That's escaping to go back to Jay Jackson and patch things up before they fall apart.

We could talk about the different theories. But forgetting about the theories for the moment, you got a witness willfully false. She couldn't call 9-1-1? She could make outgoing calls from the ranch to Jay Jackson. She could make outgoing calls from the ranch to other people. She can call Aja Pryor. She made all these -- completed all these calls and talked for -- if you look at the records of the Calabasas Inn, she talked for, you know, 30 minutes, 45 minutes. I mean, she's yakking on the phone. Her testimony is, "Well, I was leaving little hints." That is just absolutely a witness 9049

willfully false.
And then that leaves us with the prosecution's last blockbuster witness, who they, I think, represented but clearly intended that he'd tie things up for the People and somehow make their case after everything has fallen apart. And what happened but his testimony fell apart. And that was Rudy Provencio.
He got up, his affect was very strange for a witness in a serious case who really had something to say, and then we find out why. It turns out that when he was first interviewed at length on January 31st, he had never said anything about killers. He never said anything about escape. He said Debbie Rowe was sincere. He never said anything about questions being -- I'm sorry, answers being scripted. He only said there were questions. That's what he told the police officers.
Then he decided to go to work for the police and start tape-recording stuff. None of which came into evidence, because it wasn't significant. It didn't come into evidence or it would have been here, I'm sure. He tape-recorded stuff during 2004 trying to get people to say things. And he was trying to be helpful to the prosecution, all right?
What does he do? He comes in with these notes that he claims he found two weeks ago. And what does he do? He even comes with the receipt 9050

from the -- from the storage place to show that he went there to clean out his storage two weeks ago. He's a witness willfully false. He was lying through his teeth.

And we know that. We not only know that he was lying and perjuring himself on the stand, as were these other witnesses -- and I don't say that lightly and I don't say it rhetorically. I'm saying it specifically, clinically, for a reason. That's what happened. We know he manufactured evidence.

And how do we know that? We know that from the evidence in this case. It is just absolutely clear.

And the reason we know that is he claimed that he wrote these notes contemporaneously. And the new notes that he just turned over that he never told anybody about, he never told the police about escape, killers, or anything else until two weeks ago, when at the same time he's finding these -- miraculously finding these notes that he manufactured in violation of Penal Code Section 134, a felony. He should be prosecuted.

He said these notes were written on February 1, 2003. When he was confronted with the absolute impossibility that those notes couldn't have been written at that time, then he said, "Well, look down here. Paragraph two is a different handwriting, so I must have done it on a different date, even though February 2 comes after February 1." And, "Look, I 9051

had February 17 earlier, so, see? It could all be a big mistake."
Okay? But what he said, and he stuck by it through the very end through Mr. Mesereau's questioning, was the part about "The mom is flipping out" was definitely part of his notes. That was right under the January -- I mean, the February 1, 2003, notation. And he said and he claimed and swore under oath that that was February 1.
And he offered the explanation on January 24th, we've got a transcript from Kathryn Milofsky, a CBS correspondent who was at one time in England and apparently is here now, whose name pops up every once in a while on various things. She seems to be corresponding with a lot of people. Of course, I suppose you haven't ruled on the 400 series yet, so I won't talk about the content of that. But that was part of the offer there, part of the offer by Mr. Auchincloss.
It turns out that that story, that -- he thought he saved the day, so he could be the blockbuster witness. I don't know what his motivation is. He wants to be the big star witness. He's a wanna-be cop, he's a wanna-be this. I don't know. But he was a liar on the stand. And I don't say that lightly, and I don't say that just to insult him.
We know that because the weight of all the 9052

other evidence in this case indicates that Janet Arvizo didn't have any idea what Bashir was about when the press started calling her mother's house on February 4 and February 5. She doesn't have any idea. She had no idea. There is no contest on that. Jay Jackson, Major Jay Jackson confirms that. That's when the press comes around, on February 5, and he tries to get them to pay him money, and they eventually offer $15,000, and it's not enough. That's February 5. Nothing is happening on February 1. Nothing is happening on February 2. Nothing is happening on February 3. He created these notes to make himself a key witness in this case. And that's why, when I say Mr. Jackson is entitled to no more, but no less fairness than anybody else, and I don't care if I'm standing here representing another client who has absolutely no status as a celebrity or status in any other regard, I would make the same argument. He is entitled to have this Court determine if there are witnesses lying up there, and they're willfully false, that their testimony should be disregarded, and when you look at the whole body of evidence, reject it and grant the 1118.1.

Now, to make matters worse, he tried to lie about that further by saying, well, it was because of the transcript. And you recall that the transcrip - or the report - it was unclear whether 9053

it was a transcript or a report that he went through - Mr. Mesereau asked him, “Well, you went through two weeks ago and you started adding ‘Michael Jackson’ to everything.”
“Well, I made corrections as to spelling.”
“Well, you added ‘Michael Jackson.’ You added some other things.”
“Well, I did add that.”
He manufactured all this, and he manufactured this story that was the script. The problem is that we all know from this evidence -- if we don’t know anything else, we know from this evidence that Janet Arvizo had absolutely no knowledge of a script from the Bashir film whatsoever. And she didn’t even know about the Bashir film airing in England and she didn’t even see the Bashir film when it came out on February 6th in the United States. And so it is much more consistent -- not “much more.” It’s -- the only thing that’s consistent with the facts that you’ve seen from multiple witnesses is that after the 6th and it was shown, the Bashir tape was shown in the United States, did Mr. Schaffel get himself back into the group.
And remember, he was sent a letter -- and this Witness Provencio tried to make fun of the lawyer, Zia Modabber. He was sent a letter, Schaffel was sent a letter saying, “Stay away from 9054

Michael Jackson," and his -- he was trying to get back into Michael Jackson's world, like everybody does, to try to be a part of this celebrity world and get the benefits and make money behind Mr. Jackson's back or with his -- with his approval in some regard, make money, make yourself a big wheel. That's what he was trying to do. We had that testimony.

And in his original statement to the police, he was clear it was after the Bashir tape aired in the United States on February the 6th, and that's the only thing that would be consistent. Not that Marc Schaffel or anybody else were making conspiratorial statements, let alone the other things he attributed to them in the February 1st and the February 2nd calls. That's absolutely false. It's a lie. It couldn't have happened. But it's not only a lie, but it's a lie by somebody who came in here and manufactured notes to give to the prosecution, who gave them to the defense, and we all sat and looked at his notes, and that was false evidence, a felony violation of Penal Code Section 134. The man should be prosecuted for that, and we've seen people prosecuted for a lot less.

So when you look at that, he is the only witness that they've been using to try to somehow tie Michael Jackson into some kind of a conspiracy by saying, "Well, he was on the phone. Well, I 9055

1 listened to all the phone calls."
2 "Oh, you did?"
3 "Well, because he had them on speaker."
4 And "Marc Schaffel was a terrible person.
5 He was very happy to put down anybody he wanted to."
6 And then he went into his own office, and he picked
7 up the phone and he listened in secretly to calls.
8 That testimony can't be believed. That man
9 never said Michael Jackson had anything to do with
10 anything. And in fact, he had told others that
11 Michael Jackson didn't know what was going on.
12 He comes into court to be a hero for the
13 prosecution. And they put him up, and I choose to
14 think they put him up unwittingly. I don't suggest
15 they put him up deliberately saying, "Get up there
16 and lie." But at some point they had to know he was
17 lying.
18 And I'll tell you what. There was something
19 that was very telling. Mr. Mesereau asked Mr.
20 Provencio, after this incredible testimony that any
21 lawyer, like Mr. Zonen, who knows the facts of this
22 case, would have to see is not only improbable, but
23 it's a lie. And the one question was, "What did Mr.
24 Zonen ask you at the break?"
25 "He asked me if I was telling the truth."
26 Don't you think that any lawyer in his right
27 mind would have asked that witness, "Are you telling
28 the truth?" And might have asked him a few more 9056

questions like, “How in the world could you possibly do that?”
I’m disappointed that they tried to rehabilitate him after that, and they didn’t succeed. I’m disappointed in that. I would expect them to say, “This man is lying, and we want to withdraw his testimony.”
Even defense lawyers, because defense lawyers are always picked on, and prosecutors have a higher standard when it comes to some things, but lawyers, as lawyers, have certain high standards we have to abide by. The Court’s well aware that even when a defendant takes the stand, over the objection of counsel, and wants to say something untrue, a defense lawyer has an obligation not to -- not to aid and abet in that, even though it’s an exercise of a Constitutional right by a defendant. Any lawyer, prosecution or defense, has an obligation to not try to rehabilitate somebody who’s gotten up there and lied through his teeth so clearly and emphatically. There’s just no way around it.
Now, having said all of those things, when you put all of that in context, that’s why it says -- that’s why I say it makes the Court’s job easier or less hard, because I know it’s a hard task to perform.
If this wasn’t the Michael Jackson case, I don’t think the prosecution would have tried 9057

anything, and the prosecution would have said, "You're lying. We want to stop. Let's disclose this to the Court and let's have a hearing. Let's do something. Let's dismiss the case." But they went ahead and they're going ahead, and they're going to get up after I sit down and they're going to argue these people weren't lying, I suppose. It's up to the Court to look at this and say, "We cannot permit this case to go any further." Why? The jury may well see it the same way, and I think they probably do, to a certain extent. They're not lawyers. They don't know all the rules. They don't know exactly what they're supposed to do yet. At the end of the case, they may well do the right thing and acquit Mr. Jackson, but they might not, because they might be moved by the innuendo. They might be moved by the 1108 evidence in particular. That is extremely dangerous. It's extremely dangerous in this case where it is propping up people who are witnesses willfully false. So I'd ask the Court to grant the 1118.1 motion as to the conspiracy count and as to all the other counts. Thank you.

THE COURT: Thank you, Mr. Sanger. On behalf of the People? 9058

MR. SNEDDON: Be right with you, Your Honor.
First of all, Your Honor, let me address the question that we began discussing with Mr. Sanger at the beginning of his remarks.
I believe Mr. Sanger is wrong in the law.
I believe his interpretation of the law with regard to what the Court's responsibility is with regard to this motion is incorrect. And while I believe that -- that that was a nice final argument that Mr. Sanger made, unfortunately, the point that we are at with regard to an 1118 motion is after a defendant has been convicted. And at that point is there substantial evidence to support the conviction, drawing all favorable inferences in favor of the jury's verdict. That's the standard.
And I cite to the Court two cases that clearly set forth that standard. The first case is People vs. Cuevas, C-u-e-v-a-s. It's a 1995 case at 12 Cal.4 252. And then there's a rather recent case -- and that's at page 260, if I didn't indicate that, Your Honor.
And then there's a more recent case which is called People vs. Coffman, with a C, f-f-m-a-n, and Marlo, M-a-r-l-o, which is found at 34 Cal.1 at page 90.
Both of those cases make it very clear that the Court is not in a position on an 1118 to make credibility issues and decisions, but only to decide 9059

whether or not there is substantial evidence that the jury believe the evidence was credible. And so that's a considerably different matter than what Mr. Sanger was urging upon the Court.

Having that in mind, what we have to do is assume, it's a starting point, that every argument that Mr. Sanger just made to you, that he would have made to the jury, and the jury didn't believe it or didn't find it persuasive, and convicted the client in any case, and are there reasonable inferences in what remains in the testimony and the evidence that supports the reasons that the jury found against everything Mr. Sanger just stood here and told you? That's where we really are in this case.

Having said that, I'd like to begin with a little bit of analysis, first of all. And I won't spend much time on it, but I think it's important to put things in perspective in terms of the law of conspiracy in light of some of the things that Mr. Sanger said.

There are three charges here. One charge of conspiracy, with an allegation of three particular crimes that were involved: Extortion, false imprisonment and child abduction.

Now, I share, in one respect, Mr. Sanger's notion that there is a double agreement and a double intent that's required to commit this crime. And I do not take exception with that. However, I do take 9060

exception with this little bit of selective memory in terms of the rest of the law on conspiracy. For Mr. Jackson to be guilty of the conspiracy does not require him to be the puppet at the top of this, moving all the strings to the little puppets below. It requires that in whatever role Mr. Jackson plays in the conspiracy, that he does so with the intent to commit the crimes that are alleged and he does so with the intent that there be a conspiracy to commit those crimes. All he needs to do is share in the overall goal of the conspiracy; that is, that there was an attempt to conceal or an agreement. Not an attempt, but it was an agreement to conceal or to falsely imprison, to abduct and to extort.

The crime of conspiracy is unique, because it does not require that the crime actually be committed or accomplished. And that's why we have a whole series of overt acts. And that's why the law of conspiracy is set forth in the instructions to the jury as they need not find that these crimes were actually committed, only that there was an agreement and an intent and a conspiracy to commit these crimes, and there was at least one -- one overt act done towards the commission of the goals of that crime.

Now, that's the law of conspiracy. That's the proper perspective for which this case and this 9061

1 1118 motion needs to be heard.
2 And it's a fundamental principle of the law
3 of conspiracy that when you have many people
4 involved in a conspiracy, that many people have
5 different roles. And I don't think we have to
6 stretch very far if you just take the common analogy
7 sometimes that I'm sure this Court is familiar with,
8 and I don't mean this in any disrespect to Mr.
9 Jackson, but I'm only using it as an analogy. The
10 one that comes before us more often than not, if you
11 look at those cases that this Court has seen and if
12 you look at the cases on the laws of narcotics and
13 drug cases, and when you try to get to the top of
14 the cartel, you try to move to the top of the big
15 sellers, oftentimes what you're talking about is
16 moving through other people through that syndicate
17 that's reflective of what the agreement is at the
18 top. It doesn't mean that the person at the top
19 doesn't know or share in the agreement of what the
20 people are doing down below.
21 So I think that the attempt by the defense
22 to portray Mr. Jackson as somehow being the
23 mastermind behind the conspiracy is a false attempt.
24 It is not something that we've alleged during the
25 entire time that we've tried this case to the jury
26 and the time we put this case on to the grand jury,
27 or the time that we talked with you at the 995.
28 The fact of the matter is, Mr. Jackson had a 9062

role. The fact of the matter is, I'm going to point to you evidence that shows that he was in agreement. The fact of the matter is that he was the beneficiary of everything that happened in this case.

And it's not necessary that the -- that they succeed in their attempts to falsely imprison, or to abduct the children, or to extort something out of someone, although I do believe that there is strong evidence that they did succeed in certain extents in all of those goals, as I will point out.

Now, I'd like to start, first of all, and I want to say that there's another thing that I think needs to be said to the Court. There's another fundamental principle of the cases that interpret the sufficiency of the evidence to sustain a conviction on appeal that deals with how you prove a conspiracy.

Lord knows nobody is dumb enough to get together and have five or six or seven or two or three people sign a contract and say, "We're going to go out and commit these crimes, and I agree to do this, and you agree to do this, and he agrees to do this." Nobody does that. I dare say that all the time you've been on the bench, you've never heard of a conspiracy where they had a contract and they walked in here and showed you everybody agreed by way of contract to do this. 9063

And that's why the case law in California is replete with cases that demonstrate over and over and over again that the thing that you look for on the substantial evidence review is, is there association? Is there a way to link these people together in some common purpose? Is there a motive among the people? Are the goals and the acts of the people reasonably calculated to accomplish what is alleged to be the goals of the conspiracy?

And that's where I think our starting point has to be. What's the motive in this particular case?

The motive of Mr. Jackson is clear. The Bashir tape, and even Mr. Sanger, to an extent, admitted it in his argument to you, the evidence of one thing has been proven in this case so far. The evidence is overwhelming that this was a death threat to his career. He was hemorrhaging financially and had been for several years. He had a cash flow problem. And for some reason -- as Mr. Duross indicated, for some reason he couldn't get out and market himself, and didn't, or chose not to, to try to do something about this debt.

But the Bashir filming was the thing that was just the last stroke that was going to end his career if something wasn't done immediately to turn that around.

Now, sure, some people are going to make 9064

money off that. There's no reason that some of these people involved in trying to resurrect his career couldn't make money in a venture trying to resurrect it. There's no reason why these people involved in this couldn't benefit from being associated with whatever was left of Mr. Jackson's career, and to the extent that they were able to resurrect his career, to benefit by being on the inner circle.

But the motive was to resurrect his career. And that's what was clear, that the only person who really benefited first, foremost, was the defendant in this case, Michael Joe Jackson.

It's totally unrealistic to believe that at this particular point in time, when his entire career, his entire financial situation, his entire entertainment, his entire record career is on the line, that Mr. Jackson is going to sit on the sidelines, allow people to come in from the outside, run his career, what's left of it, and try to salvage it without knowing what's going on.

And one thing that has also been proven here, I believe, that there's substantial evidence that Mr. Jackson is a hands-on person. He likes to get involved to some extent and to be informed, and likes to make the ultimate decisions as to what's going on. He's been described as the captain of the ship. And I think that the evidence that 9065

circumstantially has been shown here establishes that just to be the case here, and I want to start to just direct the Court's attention to some of the things that I think are important.

First of all, I think we need to comment on the associates themselves. These are people that came in from different places. One's from Canada. One's from Germany. Mr. Schaffel is local. Mr. Schaffel had a history. Mr. Tyson had been a friend, a close family friend, and his family has been a close family friend of the defendant's for years. Absolute years.

Now, who is it that's involved the most in actually executing many of the overt acts in this case? Frank Tyson. Frank Tyson, the defendant's closest friend, is the person who's out there doing many, many, many of these overt acts. Who's at the ranch hanging out with the defendant while all this conduct is being conducted? Frank Tyson. And his friend, Vinnie, that he brought in to help him do all of these things.

You look at the phone analyses that were presented to the jury in this case, and you look through the key times when things are going on, like when the Arvizos left on the 12th, and the video on the 19th and the 20th, there are very few phone calls up there of Marc Schaffel. The majority of the calls are going back and forth between the 9066

defendant's closest friend, Frank Tyson, his cohort Vinnie Amen, Neverland Valley Ranch, and phone calls to Michael Jackson's investigator's cell phone. And we have testimony from at least, I believe, three different witnesses in this case that that's how Mr. Jackson communicated with people.

I think it's significant that the Court in this particular case also has to put into context what happened here when this whole thing got started, when the bad news came out, when they learned about the transcript on the 24th, when Schaffel went to Dieter and Ronald and when they went to Miami where the defendant was. Those people were called to Miami to be with the defendant to consult. "What are we going to do to solve this problem?"

What comes out of the product of that, Your Honor? The product of that is the defendant is the first one in this case who mentions "killers." It's the defendant who is the first one in this case who reaches out his hand across the nation through the telephones to contact the Arvizos, who he has not had a single solitary contact with for months, and that last contact was simply to manipulate Gavin Arvizo to participate in the Bashir tape. And he hadn't seen Gavin and the family for months and months and months before that. It's the defendant who reaches out first. 9067

The Arvizos are minding their own time. They're getting bombarded by the media because of the Bashir tape. But they're not calling Jackson. It's Jackson calling them. It's Michael Jackson who says, "I want you to come to Miami." It's Michael Jackson who said, "I want you to come here for a press conference."

Now, I think we have to stop and think about something here, something that Rudy Provencio said on the witness stand. Mr. Jackson said he didn't really like to do press conferences. Well, if he wasn't going to do a press conference, why did he want those people in Miami? And why was there a one-way ticket bought, or going to be bought, before they put them on the charter jet with Chris Tucker? A one-way ticket? They wanted those people out of circulation. They wanted that family out of circulation. And it was the defendant that reached out to them and brought them to Miami, to him and to the other members of the conspiracy in this case.

And who was it who speaks first in Miami? It's the defendant, Michael Jackson. It's not Dieter. It's not Ronald. It's not Marc Schaffel. It's not Frank Tyson. And it's not Vinnie Amen. And he sets the tone. Again, he says, "the killers." "And if you want to appease them, if you want to appease them, the killers, do what these two people who work for me tell you to do." And he set 9068

the whole tone for the entire relationship and the
situation at that very point in time.
And we know for a fact, or there's no
evidence to the contrary, that there were no
killers. There were no people to appease. It was
false. It was made -- it was something that was
made up to induce a mother, who is fearful for her
children, who has no father figure in the family, to
go to somebody they thought was their friend, his
friend, Michael Jackson.
And it worked. And it worked.
And when they get there, what are the first
two things that Dieter and Ronald do? The people
that Janet Arvizo is instructed to rely on? The
people who are going to take her out of this
problem? The people who are going to appease the
killers? They don't do anything to try to make
money off of Michael Jackson. What they do is, they
have her sign blank pieces of paper which are
eventually used to try to infer that she's part of a
lawsuit with Michael Jackson against Bashir that she
says never -- wasn't on the sheet of paper when she
signed it in blank.
What else do they do when they're in Miami?
They don't try to do anything to take money from
Michael Jackson. They issue a press release, which
statement's attributed to the family and to Janet
Arvizo and to Gavin Arvizo that they've never made. 9069

Who benefits by that? The defendant is the only one that benefits by that. When they decide to go back to California, you can't reasonably assume that Mr. Jackson didn't know that the Arvizos were going to come to the ranch. It's his ranch. It's his charter plane. It was his invitation. Why is he doing this? There was no press conference. Why not take them home? Why not let them go? Why take them to the ranch? Again, the reason is clear. They wanted to isolate these people. They wanted to keep them away from the media. They wanted to convince them to do a rebuttal film, all things that Mr. Jackson was aware of. He was aware of it, because on the conversation that Rudy Provencio tells us about, he not only talks about Debbie Rowe doing the rebuttal film, but he also talks about the fact that they talk about the fact that the Arvizos were to be part of that film. So he's aware that that's part of the project. So why do they have to go the ranch? Why do they have to stay on the ranch if that's part of the project?

And the defendant 's the one who's involved in making those kinds of decisions as to who can stay at his ranch and under what circumstances and who gets on his charter jet. That's not a decision made by Dieter Weizner. It's not a decision that's made by Marc Schaffel, who's in California. That's 9070

not a decision that's made by Ronald Konitzer. And it's certainly not a decision that would be made by somebody like Frank Tyson.

I think the evidence is fairly clear in this, by the way, this "killer" statement, that it was false, was not true. We have from several different witnesses in this case now that confirms that. Not only through the -- through Rudy Provencio, but he said he heard the same thing from Ian Drew. And so there's several different sources of the fact that this kind of language was used to scare the Arvizos in this case.

Now, with regard to what happens in the next 12 days, whether you want to call it an escape or not between lawyers, or whether you want to categorize it as a situation where somebody was there against their will, I don't think we have to quibble about it, because the people associated with the defendant in this case clearly called it what it was. It was Ronald Konitzer on the phone with Ann Gabriel Kite, and it was the other people that talked about the conversation that they escaped that we heard about in this case. They used the word "escape."

Now, I don't think any reasonable person could understand the use of the word "escape" unless somebody was being held against their will, unless there had been a lack of an opportunity to 9071

voluntarily leave or -- why would you use that term? And just the circumstances itself that they have to go to a person and speak in Spanish and then leave in the middle of the night in a hurry and leave and go back to Los Angeles bears that out.
But the thing I think that bears it out more than anything else is the eventual telephone conversation between Frank Tyson and Janet. And you hear that conversation on the phone. And it indicates several different things about the continuing nature of that conspiracy.
It indicates -- number one, it corroborates the fact that there had been contact between Dieter and Ronald and Janet; that those contacts had been nasty, I guess is the easiest word you could use; that she was upset about that; that she didn't want to be there anymore with those people there.
The second thing that it shows is that they still wanted the rebuttal film. They still wanted the Arvizos to participate in what they hoped to be the FOX program at that time, because they committed publicly to FOX to have the Arvizos on that program, because Frank's heard to say on that tape, "I want you to say beautiful things about Michael. Come back. Come back." He says several times on that tape -- if you recall, Your Honor, several times he alludes to the danger that they're in. "Danger," over and over again. 9072

1 And he then tells her several times,
2 speaking on behalf of the co-conspirators, Michael
3 Jackson, “Michael misses you, Michael cares for you,
4 Michael wants you to come back.”
5 Now, it’s unreasonable to believe -- now, we
6 have to understand, they leave on the 12th. This
7 conversation take place two, three days later with
8 Frank Tyson. It’s unreasonable to believe that the
9 defendant was not aware of the fact that that family
10 had left the ranch. For every day and every night
11 since that he arrived at that ranch on the 7th, he
12 had been in the presence of those children. At
13 least Gavin and Star. It’s unreasonable to believe
14 that he didn’t know for several days that they were
15 gone from the ranch, when they’d been sleeping with
16 him and playing with him, and doing whatever they
17 did the rest of the time of the day.
18 It’s just as unreasonable to believe that
19 Frank Tyson, his closest friend, would be making
20 representations to Janet that weren’t
21 representations made on behalf his closest friend,
22 Frank Tyson. Frank even lies to her to get her to
23 come back to the ranch by telling her that the
24 Germans are gone, that the problem’s over with, and,
25 “Come back.”
26 Janet makes it very clear on her behalf,
27 Your Honor, that she’s not interested in making any
28 money on this case. She makes it very clear in that 9073

conversation with Frank. She still cares very much about Michael Jackson. She's told on the tape, you can hear it, "There are letters all over my mother's table in El Monte. We're getting calls by the press." "If I wanted to make money," she could have made money, she said. "I didn't want to make any money off Michael Jackson."

And then what happened? She goes back to the ranch. And what did she see? She sees Dieter and Ronald. She's been lied to, and she leaves. But who is it that says the children must stay? It's the co-conspirators, Dieter and Ronald, who are there. And at that point she's deprived of her children. She says, "You can leave, but the kids are staying here. They're staying here, whether they want to be here or not."

The fact of the matter is, they did. She couldn't have taken them with her even if she'd wanted to.

Now, the other thing I think we have to take into consideration is that there is evidence that Dieter and Ronald were at the ranch with Michael Jackson during this whole period of time, not the entire six weeks, but the entire time from around the 8th or 9th through the 12th and then later. And that Frank Tyson is there at certain critical points and times and then later.

And to believe that the ranch is being used 9074

by these people without Michael Jackson knowing a thing that's going on I think is an unreasonable inference to draw from the conduct of the parties, from the fact that they're seen together meeting. And I think illustrative of this is the fact that -- and this wasn't something that Gavin testified to on direct examination. This was something Mr. Mesereau brought out on cross-examination. That at the very time before the video is going to be filmed, Brett Ratner and Michael Jackson were at the house trying to get Gavin to sign a release to participate. It clearly shows that the defendant is still actively involved in the project to get the Arvizos on that rebuttal film, and knows the significance of that in terms of the preservation of his own career. I don't think there can be much doubt of the fact that at that point in time, after the children returned, with the case -- and the state of the evidence in this case, we have a witness, Barron, who says there's a sign that Gavin's not to leave, and we have logs that say that Gavin and Star, et cetera, are not to leave. We have testimony from Mr. Barron he never saw anything like that before or after during his time he was employed there. We have Hamid saying that Joe Marcus wasn't going to let the kids leave the ranch to do the rebuttal film until it was cleared. I don't think it can be 9075

argued that these children were free to go wherever they wanted to go, or this family was free to go wherever they wanted to go.

The trip to Brazil. The trip to Brazil.

They take them down to a hotel. And have you ever heard anything more bizarre than that, than having people sit in the hotel two to three doors down with the door open so you can't even walk by in the hallway? And then a private investigator sitting in the lobby? For what purpose, other than to confine, and to intimidate, and to control, and to isolate those people.

The trip to Brazil, I think, is also illustrative, and then again, this is something Mr. Jackson, the state of the evidence is, Mr. Jackson knew about. You recall that Gavin testified that he was present during a conversation where he and Frank Tyson and Mr. Jackson testified that Mr. Jackson said that he would join them later. To entice them. So you can't say he wasn't aware that they were trying to get this family out of the country.

Why are they trying to get this family out of the country? What have they done that deserves for them to be taken out of the country? And why do, when they go to check him out of school, they tell one person they're going to Arizona? And why, when they go to get passports, do they tell them they're going to Italy and France, and then they 9076

eventually get visas for Brazil, another country?
I think the only logical reason for that is
they're trying to hide the trail so nobody can track
this family, ever. And take them down to Brazil
where at least two people connected with the
defendant are familiar with things down there. We
have testimony that Mr. Schaffel goes down there.
And Mr. Hugo, who was present at the rebuttal
filming, was down in Brazil and making phone calls
back to people during this particular point in time
that was critical to the trip to Brazil.
THE COURT: How much -- I think we'll take
our break. How much time do you need to finish?
MR. SNEDDON: I don't think I need much
longer. Maybe 15 minutes. But counsel had an hour,
so --
THE COURT: I just was asking.
MR. SNEDDON: Okay.
THE COURT: All right. We'll take our break.
(Recess taken.)
MR. SNEDDON: I'll try to wrap this up
pretty quickly.
Oops, sorry.
THE COURT: They're waving at you.
MR. SNEDDON: I heard. I could feel it back
there. It was like a breeze, a nice one.
(Laughter.)
MR. SNEDDON: I said, and so everybody can 9077

hear it again, I'll try to wrap this up rather quickly, I think. The break helped me do that. I just want to go back and address a couple other items on the conspiracy, and then I'll turn my attention -- and I want to say this at the outset. I believe that we correctly analyzed the state of the law to the Court before we -- when we started this, but I think I'd be remiss if I didn't address at least some of the factual credibility issues that were raised by the defense, but I really don't believe that that's pertinent to this particular proceeding, but there's some things I think need to be clarified about what was said. I'm not going to do it in detail. I'm just going to hit some highlights about things, so....

First of all, I just want to get back to the conspiracy. I think there's another thing that needs to be noted about the associates that the defendant was involved with in these particular adventures that I think that bears some noteworthiness or some reasonable inferences in this case.

A lot has been made about the fact that Marc Schaffel was a person of low credibility, and there's been evidence that he may have taken a million dollars that he shouldn't have taken from a lady in Japan, and that Dieter and Ronald may have taken money from Mr. Jackson, a lot of conversations 9078

about that.
But I got to tell you that the one thing
that stands out about that in relationship to this
case is that if you're going to be involved in a
conspiracy to save your career, you're not going to
go out and try to hire somebody to help you that's
honest, if you're going to try to extort something
out of somebody, if you're going to try to control
and isolate individuals and falsely imprison them
and move them around and keep their kids away from
them.
You're going to get the kind of people that
you know are willing to do things that are
dishonest. These are people that the defendant's
been associated with for many, many years, and he
knows their character, and he knows what they're
capable of. Or you can out and find somebody who is
blindly loyal to you, who you can trust implicitly,
because it's somebody who will be at your side and
has been at your side and will always be at your
side no matter what you request of them. Somebody
like Frank Tyson. Those are the kind of people that
go to making up a conspiracy of this type with the
stakes that are this large.
And I think it needs to be clarified that
when -- in relationship to Mr. Jackson knowing about
what goes on, Mr. Sanger glossed over the testimony
in this case where he said, "Even Rudy Provencio 9079

said that he doesn't always know what's going on with Ronald and Dieter and Marc Schaffel."
Well, that's not exactly what his testimony was.
What his testimony was is that in relationship to what was going on from the crisis from the Bashir tape, that Mr. Jackson was in the information loop and in that loop regularly. That the things -- if you check the transcript, the things that he said that Jackson didn't know about were the other ventures that these people had going on that did not involve this particular crisis. But he was very clear in his testimony that as to this particular crisis, Mr. Jackson was in that loop, and he was in that loop on a regular basis.
I think the other thing that needs to be borne out about much that Mr. Sanger makes about "scripted." I guess the difference is, and I think perhaps there's some legitimacy to this, given the fact that Mr. Jackson's an entertainer, that there's a common-sense meaning for "scripted" and then there's an entertainment meaning for "scripted," I would think.
The fact of the matter is, whatever way you want to put it, that Debbie Rowe interview was not a legitimate, truthful interview by any stretch of the imagination. And why it should take somebody nine and a half hours to say something nice about the 9080

defendant is beyond me. And why they should have to stop the tape and say that, “You didn’t cry well enough, so we’ll go back and cry again,” now if that’s not scripted in the common-sense term, I don’t know what is.

And I think that proves just the point we were trying to make with the Janet Arvizo tape is, whether you talk about it’s written, or it’s not written, and for Pete’s sake, look at the photograph that’s in evidence. There’s papers all over that room. You see Marc Schaffel sitting on the ground writing. They weren’t doing their income tax returns. Those were scripts of questions.

Now, whether you want to technically say that they were -- that something was told to be said this way and that way, obviously they tried to do that. They just weren’t successful with her. She was going to tell the lie that she and the defendant made up years ago. And she was going to stick to that, and she was going to tell it her way. It wasn’t that they didn’t want it another way.

I think another thing that needs to be borne out with regard to something I said earlier this morning, Your Honor, and that’s with regards to this ranch sign, the one that said Gavin can’t leave, the one that’s in the logs. I don’t think there’s a shred of evidence in this case that indicates that Marc Schaffel has the kind of power to tell Joe 9081

Marcus what to do at that ranch and to tell the
people what to put in those logs.
It was Joe Marcus who said the kids can't
leave the ranch. And who does Joe Marcus report to?
He reports to the defendant in this case, not to
Marc Schaffel.
I'd like to just finish up by a direct --
addressing just a few, and I'm not going to go into
all of that, because I don't think there's any sense
in doing final arguments on a day like this,
particularly when I don't believe the credibility
issues are on point. But I think there's some
things that need to be clarified, and frankly, this
is a good opportunity to say this.
I am -- I am offended and I'm sick and tired
of the defense standing up in this case, as they've
done for months and months and months and months,
saying that they don't take it lightly when they
accuse somebody of perjury. They said this when
they accused me of perjury. They said that when
they accused me of suborning perjury. They accused
Mr. Auchincloss of that. And now they're accusing
Mr. Zonen of some impropriety. I think they do take
it lightly, and the fact of the matter is, there's a
common denominator. Anybody who stands in their
way, whether it's Janet Arvizo, Gavin Arvizo, Star
Arvizo, Davellin Arvizo, Rudy Provencio or anybody
else in this case that says one thing bad about the 9082

defendant in this case are perjurers.
I don't think the law of coincidence is that high. None of us get anything out of this except a lot of grief. So to say that they don't take it lightly I think is nonsense, and I'd like to show you why some of these things are nonsense.
If Rudy -- Rudy Provencio is a media guy. He works in the media. He knows the media. Now, if he wanted to go get a notebook and make up a bunch of things about Michael Jackson and implicate him in this case, all he has to do is go to smokinggun.com, download the grand jury transcripts, have an accurate depiction of every single event that occurred in this case and a date reference, and he could have made up the greatest notebook in the world and came in here and testify to it.
MR. SANGER: Your Honor, excuse me, I'm just going to object to keep it on track. This argument is limited to the evidence that's before the jury at the conclusion of the People's case. So I don't want to object unnecessarily, but I think we're going afield from that particular issue talking about "The Smoking Gun" and things that are not in evidence.
THE COURT: Overruled. Go ahead.
MR. SNEDDON: He could have gone out and constructed a notebook that would have been devastating to the defense in every respect. Every 9083

date right, every event, every conversation. He could have manufactured conversations that occurred between he and Schaffel, or he and the defendant, or any other parties to this conspiracy that occurred, not only just the two he testified to. He could have made up other conversations if he wanted to be a hero in this case and a perjurer in this case and to do the defendant in in this case. That just doesn't hold water, like the pay/owe with a big hole in it.

If he wanted to be the hero -- and one thing, if you could tell, he's not a dumb person. He didn't need to do it that way. And probably the reason and likely -- the more likely reasonable inference is he did it that way because that's the truth and that's the way it happened. And people do things at certain points in time and they're not looking back that there's going to be a trial. There was no investigation going on when he took these notes. There was just a crisis going in the media over the defendant and his career.

This timeline change makes Gavin a liar.

Let's put it in perspective, if we can.

First and foremost, this whole thing about there's no disclosure until after they go to the lawyers and after they go to Dr. Katz, well, actually there wasn't a disclosure even with Dr. Katz, so there was nothing for the lawyers to muck 9084

around with because he doesn't disclose to Dr. Katz.
As you recall, Dr. Katz' testimony is he got very emotional, and he terminated the conversation because he felt something had happened, but he didn't want to go any further.
The first disclosure was to law enforcement.
Now, what's the testimony in that case about the disclosure to law enforcement?
The testimony elicited by the defense, Mr. Sanger himself did it, elicited from Sergeant Robel, when he was testifying, was they -- "they," Santa Barbara Sheriff's Department, after having received the information from Mr. Feldman that there had been a report made, or that was the report, to be more accurate -- tried to get this family to come to Santa Barbara in order to do an interview with them to see whether or not anything had happened. In other words, to follow up on that responsibility because they had received a mandated report.
And what did he say? They didn't want to be involved. They didn't want to come. They didn't want to do it.
And, now, does that sound like a family that has a lawsuit on their mind? Or does that sound like a family that just wants to be left alone, that's tied up in this thing now there was a mandated reporter involved?
It just doesn't hold water. 9085

And the timeline never changed. The timeline was, as the testimony disclosed from Gavin, that was consistent with his grand jury testimony, which was consistent with his trial testimony, that he told Sergeant Robel early on during the investigation, that the crimes -- the molestations occurred during February and March. Gavin doesn't pick the time period. The prosecutors pick the time period that's involved.

Now, before the grand jury, Gavin testified to two incidents involving the defendant. And what he told the grand jury and what he told the jury here is, "I believe that I was molested on other occasions. I have a feeling that I was," which is what he was talking about to Sergeant Robel in an interview. "But," he said, "I have to testify under oath. Under oath, I only remember two."

Now, does that sound like something that a perjurer would do? My Lord, the only two people present when all this happens is the defendant and Gavin. He could have made up 20 allegations if he wanted to. He could have made up more horrendous things if he wanted to. Instead, the kid's honest enough to say, "I think it might have happened on other occasions, but Lord, I'm not going to come in here under oath and say something against Mr. Jackson that I don't believe that I can credibly say without doubt." 9086

1 And that's what he did. And they want you
2 to believe that he's a perjurer because he did that?
3 That doesn't make sense, like a lot of the things
4 that the defense is urging in this case.
5 I just want to clarify two other things and
6 I'm about to sit down, Your Honor.
7 With regard to Janet -- and I'm not going to
8 be an apologist for Janet Arvizo. I'm also not
9 going to sit here and tell you that I think that
10 she's a perjurer or that she's willfully false in
11 her testimony. I will tell you that, as I think has
12 been clear and from a lot of things that happened,
13 that she is a woman who projects a person who has
14 been involved in a domestic relationship with a lot
15 of abuse for 16 years, and it's showing, and it
16 showed here in the courtroom.
17 And I think it's a little unfair for counsel
18 to stand up here and say that Janet created false
19 information about her husband beating her up,
20 created false information about a molestation, just
21 like happened in this case, from what happened
22 before, when there is public records that exist that
23 show that her husband was publicly convicted, beyond
24 a reasonable doubt and to a moral certainty, of not
25 one, but two offenses of abusing not only her, but
26 her daughter. And that a Judge, a neutral
27 magistrate, was so offended by the conduct that he
28 took away visitation rights for that father for 9087

three years, along with a lot of other things that happened.
Now, that's a little unfair. That's a tad unfair to say somebody's a perjurer and somebody's setting up the defendant, Michael Jackson, when there's objective proof of the fact that what she said was truthful.
And this whole thing about the sexual molestation, can anybody forget -- can you forget? I'm sure you haven't. Can anybody forget, any of these people who are sitting here, hearing Davellin on the stand talk about that conversation involving her mother and herself and her father where her father confesses to her that he molested her when she was a child and she breaks down and she cries? Can anybody forget that? And that makes her a perjurer? That makes Janet a perjurer for making up something that actually happened?
I'd just tell the Court, you know, it's things like this, all the way through this case, that when you look at this thing with the standard, not only eventually, but right now, that's required of this Court, I could stand up here for another two hours and make a final argument to you just like Mr. Sanger did, and I could go through point by point by point and show you the unreasonableness of their position, and I think I've just given you some isolated examples of just what I'm talking about. 9088

And I just submit to the Court that given the standard in this case and given the evidence before this Court, that this jury ought to be able to be given the opportunity to decide for themselves the credibility of these issues -- of these witnesses, given the totality of the circumstances, and that's the very standard that the Court of Appeals and the Supreme Court sets out for an 1118 motion.

Thank you.

THE COURT: All right. Thank you.

No, Counsel, you don't need to stand.

MR. SANGER: Thank you, Your Honor.

THE COURT: The Court's going to deny the 1118 motion. The request to dismiss the charges is denied.

I'm going to bring in the jury. Are you prepared to call your first witness?

MR. SANGER: Yes, Your Honor.

THE COURT: All right.

MR. MESEREAU: Excuse me, Your Honor? There's a motion in limine that the prosecution made about a couple witnesses we plan to call.

THE COURT: They don't seem to be the first two.

MR. MESEREAU: They're not the first two.

THE COURT: So I'll put that off. Get the jury in. 9089

MR. MESEREAU: Okay. Thank you.

(The following proceedings were held in open court in the presence and hearing of the jury:)

THE COURT: Good afternoon.

THE JURY: (In unison) Good afternoon.

THE COURT: You may proceed.

THE CLERK: Judge, we need to swear the witness.

THE COURT: All right. Please raise your right hand and face the clerk.

WADE J. ROBSON

Having been sworn, testified as follows:

THE WITNESS: I do.

THE CLERK: Please be seated. State and spell your name for the record.

THE WITNESS: My name is Wade J. Robson, spelled W-a-d-e, initial J., R-o-b-s-o-n.

THE CLERK: Thank you.

MR. MESEREAU: May I proceed, Your Honor?

THE COURT: You may.

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1 DIRECT EXAMINATION
2 BY MR. MESEREAU:
3 Q. Good afternoon, Mr. Robson.
4 A. How you doing.
5 Q. How old are you?
6 A. I am 22.
7 Q. And would you please give the -- please just
8 summarize your employment history.
9 A. My employment history.
10 I started dancing when I was two,
11 professionally when I was five. In Australia
12 originally. And moved to America when I was eight.
13 Became a professional dancer. Started teaching
14 dance classes when I was 12. I was in a rap duo
15 when I was 11 and 12. Started choreographing for
16 different artists when I was 14, and now I'm
17 directing film.
18 Q. And where do you live at the moment?
19 A. I live in Tarzana, California.
20 Q. Okay. And you say you're directing films?
21 A. Yeah.
22 Q. And can you summarize what you're doing in
23 that regard?
24 A. The main focus right now, I did a short film
25 that I wrote and produced and directed last year,
26 and that's doing the whole film festival circuit
27 right now. And I have a three-picture deal with
28 Disney as a film director, and we're developing an 9091

original musical.
Q. Do you know the fellow seated at counsel table to my right?
A. Yes.
Q. And who is that?
A. That's Michael Jackson.
Q. How do you know him?
A. I met him first when I was five years old. I think it was '87. And Michael was touring, he was doing the "Bad" tour. And I was imitating him as a dancer at that point. And he was holding these -- it was in connection with Target or something like that, holding these dance, like, contests all around wherever he traveled. So I entered one of the dance contests and ended up winning it, went on to the finals and won that, and then the prize was to meet Michael.
So I met him after one of his concerts in Brisbane, Australia. And it was just like in a meet-and-greet sort of room. And we met, and I was in my whole, you know, "Bad" outfit and everything. He was sort of laughing and tripping out on my outfit and asked if I danced. I said, "Yeah." And he asked me to perform with him in the show the next night.
So after -- it was like the end of the concert, I pulled up, performed in the show with him. The next -- the next -- I think within the 9092

next couple of days, my mother and I went to visit him at his hotel room, and we stayed for a couple of hours. It was in Brisbane, Australia. Just talking about what I want to do. And then that was kind of it at first.

And then for the next two years, we didn't have any contact at all. And I continued pursuing my dance career in Australia. And then the company that I was with, the dance company, was traveling to America to do a performance at Disneyland.

So we all went. Came out, did that performance. As I said, we'd had no contact with Michael or anything. Somehow my mother got in contact with Michael's secretary at that time, who was Norma Stokes.

MR. ZONEN: Your Honor, I'm going to object to the narrative form of the answer.

THE COURT: Sustained.

Q. BY MR. MESEREAU: After your mother got in contact with Norma Stakos, what happened next?

A. She talked to Michael about -- we wanted to see if we could hook up with him again and meet him again. She talked to Michael. Michael remembered me from when I met him when I was five years old, wanted to meet me again.

So I was out there with my mother, sister, my father, and grandparents. We all went to meet him at Record One Recording Studios. And this 9093

1 was -- this was ‘89.
2 Q. Where is Record One Recording Studios?
3 A. I don’t remember exactly. It’s somewhere in
4 the valley, yeah. In California. Yeah.
5 Q. And what happened next?
6 A. We met up with him. He was in between, you
7 know, working on music and that sort of thing. He
8 was doing a photo shoot at the time at the studio.
9 We took some photos with him. My family and I all
10 went into his -- sort of like the green room, and
11 played him some videotapes of all the dancing stuff
12 that I’ve been doing over the last two years. And,
13 you know, he was just really excited, checking out
14 everything I had done. And then by the end of the
15 time, he invited my family and I up to the ranch
16 that weekend.
17 Q. And did you begin a friendship with Mr.
18 Jackson?
19 A. Yes.
20 Q. Did you spend much time at Neverland?
21 A. Yeah. Spent a lot of time, yeah.
22 Q. When do you think you first went to
23 Neverland?
24 A. It was right after that visit. I’m pretty
25 sure it was that night that we went, my whole family
26 went to the ranch. And, you know, we stayed for, I
27 don’t know, about a week or something like that.
28 Q. And approximately what year do you think you 9094

first went to Neverland, Mr. Robson?
A. That was 1989.
Q. Okay. And who did you go to Neverland with the first time?
A. Went with my mother, my sister, my father, and my grandfather, grandmother.
Q. And how long did you stay during that first visit?
A. I think it was about a week.
Q. And after you spent a week at Neverland, what did you do?
A. Went back to Australia.
Q. Okay. Did you see Mr. Jackson again?
A. Yeah. We would -- I don't remember exact dates, but over the next two years, my mother and I would come out, I don't know, maybe twice a year, something like that, and spend a couple of weeks with Michael.
Q. Would you spend the night at Neverland?
A. Some of it was at Neverland. Sometimes it would be at the -- he had an apartment in I think it was Westwood at that point that we would stay at sometimes, too.
Q. That's your mother and you would stay at the apartment in Westwood?
A. Yeah. That first time, I think a couple times, sometimes I would stay by myself. Always -- I think -- sometimes -- most of the time my mother 9095

and I went to the ranch together. I think once I was there by myself without my mother. There was other people there.
Q. And did you stay in contact Mr. Jackson through those years?
A. Yes.
Q. And how would you communicate with Mr. Jackson?
A. When we weren't there, you know, we'd talk on the phone or we'd send faxes back and forth.
Q. At some point did you move to the United States permanently?
A. Yeah. We moved in September of 1991. My mother and sister and I.
Q. Have you lived here ever since?
A. Yes.
Q. Have you lived in Los Angeles ever since?
A. Yes.
Q. Now, your mother's name is?
A. Joy Robson.
Q. And how about your sister?
A. Chantel Robson.
Q. Okay. How many times do you think you've stayed at Neverland?
A. Um, it's got to be somewhere in the twenties or something like that. Mid-twenties.
Q. And have you stayed there for varying periods of time? 9096

A. Yeah. Most of the time it's usually like a weekend, you know. Friday, Saturday, Sunday.
Q. What's the longest amount of time, do you think, you've ever stayed at Neverland?
A. You know, I would say a week to a week and a half.
Q. Do you consider Michael Jackson your friend?
A. Yes.
Q. Do you consider him a close friend?
A. Yes.
Q. You're aware of the allegations in this case, are you not?
A. Yes.
Q. And are you aware, as you sit here today, that there's been allegations that Mr. Jackson molested you?
A. Yes.
Q. Mr. Robson, did Michael Jackson ever molest you at any time?
A. Absolutely not.
Q. Mr. Robson, did Michael Jackson ever touch you in a sexual way?
A. Never, no.
Q. Mr. Robson, has Mr. Jackson ever inappropriately touched any part of your body at any time?
A. No.
Q. When you first visited Neverland -- and I 9097

1 think you said it was about a week you and your mom
2 stayed there?
3 A. Yeah.
4 Q. Where did you stay?
5 A. I stayed in Michael's room.
6 Q. And could you please describe the room for
7 the jury?
8 A. When you walk in, there's -- there's a bed,
9 sort of like the main bed, diagonally to your left.
10 Wood floors. There's a second floor that you go
11 around to the right and up, which also has another
12 bed. There's a bathroom to the left. There's
13 bathrooms on both sides of the main bed on the first
14 floor.
15 Q. And you stayed in Mr. Jackson's room?
16 A. Yes.
17 Q. The first time you were there?
18 A. Yes.
19 Q. To your knowledge, has your mother ever
20 stayed in Mr. Jackson's room?
21 A. In the room? No.
22 Q. How about your sister?
23 A. Yes.
24 Q. And when do you recall your sister staying
25 in the room?
26 A. On that first trip, the first time we went
27 to Neverland.
28 Q. Okay. What do you recall doing at Neverland 9098

during that first visit when you spent approximately a week?
A. Well, at that point he didn't have many of the rides. We would watch movies in the theater. You know, we'd play video games. We'd drive around on the golf carts, look at the animals. Those sort of things.
Q. Has Mr. Jackson ever helped you with your career?
A. Yes.
Q. What has he done?
A. When I first moved out here, when I was nine, he put me in a couple of his music videos. I was in the "Jam" music video, "Black or White" music video, and "Heal the World." And that sort of helped me get a dance agent, dance agency, and -- and, yeah.
And then the next thing, when I said I was in a rap duo when I was 11 and 12, that was on Michael Jackson's label under Sony.
Q. Do you recall the second time you ever visited Neverland?
A. No, I don't.
Q. Do you recall staying in Mr. Jackson's room on other occasions?
A. Yes.
Q. And typically when you'd stay in Mr. Jackson's room, what would you do? 9099

A. What would we do as far as just --
Q. Sure. Anything.
A. Yeah. We'd watch -- same thing. We'd watch movies, we'd play video games, you know, we'd have a pillow fight every now and then. We'd talk. Hang out.
Q. How many times do you think you've stayed in Mr. Jackson's room at Neverland?
A. Same amount of times as I've been there. Well, no, that's not true, I'm sorry. I've been there a bunch of times without Michael, just with other friends and family traveling there. But, I don't know, maybe 15 to 20.
Q. And at no time has any sexual contact ever occurred between you and Mr. Jackson, right?
A. Never.
Q. Have you ever taken a shower with Mr. Jackson?
A. No.
Q. Have you ever gone swimming with Mr. Jackson?
A. Yes.
Q. And please explain what you mean.
A. One time with my sister and I, my sister and I and Michael, we went in the Jacuzzi at Neverland Ranch.
Q. And do you know approximately when that was?
A. I don't. I can't say for sure. I have a 9100

feeling that it was within that first trip in ‘89
when I went there.
Q. Do you recall what Mr. Jackson was wearing
in the Jacuzzi?
A. From my recollection, he was wearing shorts.
You know, like swimming shorts. And that was it.
Q. Did anything inappropriate ever happen in
that Jacuzzi?
A. No.
Q. Has anything inappropriate ever happened in
any shower with you and Mr. Jackson?
A. No. Never been in a shower with him.
Q. Did you get to know any of the employees at
Neverland when you were there?
A. I wouldn’t say “get to know.” You know, I
knew of them and we’d know each other’s names, but
it never went beyond that.
Q. Do you recall someone named Blanca Francia?
A. Yes, I remember her name. And I remember
her presence. I can’t place her. I can’t remember
what she looks like or anything like that.
Q. Do you know whether or not Blanca Francia
ever was in a room when you were with Mr. Jackson?
A. Not that I can remember.
Q. Okay. Did you ever meet anyone named Ralph
Chacon?
A. No.
Q. How about Kassim Abdool? 9101

A. No.
Q. Do you recall anyone named Adrian McManus?
A. No.
Q. Did you have much interaction with the security people when you were visiting and staying at Neverland?
A. No. The only interaction would be is, I don't know, if -- if they were trying -- if we were out, you know, watching a movie or something like that, they'd come tell us that dinner was ready or something like that.
In later years, when I would go there and just visit with my family and that sort of thing, sometimes we'd have water fights and get the security involved. But other than that, no.
Q. Did you come across anyone named Mrs. Chandler when you were at Neverland?
A. Yes.
Q. And when do you think this was?
A. I think I was about 13. But I can't pinpoint any more -- anything more definitive than that. Around that time.
Q. Do you recall ever seeing someone at Neverland talking to Mrs. Chandler?
A. Sorry? Can you repeat that?
Q. Did you ever see Mrs. Chandler talking to anyone at Neverland?
A. Yeah, I mean, maybe chefs or -- you know, or 9102

maids or something like that.
Q. What do you recall Mrs. Chandler doing at Neverland?
A. I think I mainly saw her if we'd sit down to eat dinner or something like that. That's the only time I saw her.
Q. Did you ever see her ordering people around at Neverland?
A. Yeah, well --
MR. ZONEN: I'm going to object as leading.
THE COURT: Sustained.
Q. BY MR. MESEREAU: When you saw Mrs. Chandler talking to these people at Neverland, what do you recall her doing?
MR. ZONEN: I'll object as irrelevant and vague.
MR. MESEREAU: There's been testimony by her, Your Honor, about what she saw.
THE COURT: I'll allow the question. You may answer. Do you want it read back?
THE WITNESS: Yes, please.
(Record read.)
THE WITNESS: I remember her, you know, ordering food, that sort of thing, from maids or chefs, or whatever.
And, you know, the thing I sort of noticed was she was always sort of -- you know, she would sort of act like the place was hers, you know. Sort 9103

of order people around a bit.
And, you know, I guess I noticed it because my mother, when we went there, she always made it really clear that this was Michael Jackson's house. This was somebody's house and --
MR. ZONEN: I'm going to object as nonresponsive to the question and narrative.
THE COURT: All right. The last sentence is stricken.
Q. BY MR. MESEREAU: Mr. Robson, has anyone told you what to say in this courtroom today?
A. No.
Q. Is everything you've said the complete and honest truth?
A. Yes.
Q. Did Mr. Jackson ever do anything wrong with you?
A. No.
MR. MESEREAU: No further questions.
THE COURT: Cross-examine?

CROSS-EXAMINATION
BY MR. ZONEN:
Q. Mr. Robson, good afternoon.
A. Good afternoon.
Q. Have you been living in the United States continuously since you were eight years old?
A. Yes. 9104

Q. Was Mr. Jackson instrumental in your being able to move to the United States to pursue your career?
A. Yes.
Q. Are you grateful for Mr. Jackson's help and assistance in the development of your career?
A. Yes.
Q. Did you go to high school or college at all?
A. No.
Q. Not either one?
A. I didn't go to a public high school. I did home studies.
Q. You did home studies all through high school?
A. Yeah.
Q. And no college at all?
A. No.
Q. So you began your dance career early on and continued through to today; is that correct?
A. Yes.
Q. All right. Now, the first time that you slept with Mr. Jackson you were seven years old; is that correct?
A. I slept in the same bed with him. But, yes, I was seven.
Q. Did you understand my question to mean something other than that?
A. Sounded like it. 9105

Q. All right. But you slept in the same bed with him when you were seven years old; is that correct?
A. Yes.
Q. Was anybody else in that bed with you?
A. My sister, Chantel Robson.
Q. She was ten years old; is that right?
A. Yes.
Q. Is it true that there was not another adult anywhere in that room at the time you crawled into bed with Mr. Jackson?
A. True.
Q. And in fact, you continued to sleep with Mr. Jackson through the balance of that week during your seventh year; is that right?
A. Yes.
Q. Was your sister there the entire time during that week as well?
A. Yes.
Q. Was she in that bed with you as well?
A. Yes.
Q. Did she continue to share a bed with you and Mr. Jackson thereafter, or did you sleep only with Mr. Jackson thereafter?
A. What do you mean by “thereafter”?
Q. Well, on all the occasions that you returned to visit Mr. Jackson’s ranch, did you stay in his room, by yourself, with him? 9106

A. Yes. But my sister wasn't in -- wasn't with us at all in America.
Q. All right. So when you moved here -- and incidentally, your father was there during that first week when you were seven years old; is that right?
A. Yes.
Q. But your father did not return to visit thereafter?
A. No.
Q. All right. So you stayed in the United States. Your father stayed in Australia.
A. Yes.
Q. Did your mother stay in the United States?
A. Yes.
Q. For the balance of the next number of years, your father was simply not in the picture while you were in the United States; is that right?
A. He wasn't there with us, no.
Q. And Mr. Jackson understood that as well, did he not, that your father was not in the picture while you were at Neverland?
A. Well, he understood that he wasn't there, yes.
Q. Okay. And did you have any contact with your father at all?
A. Yes. We talked on the phone.
Q. By telephone? 9107

A. Yeah.
Q. Did you visit him?
A. I'm sorry, are we talking about once I moved to America?
Q. Yes.
A. Oh, yes, we would go back at least every two years for Christmas.
Q. Did he ever come to the United States to visit you?
A. Yes.
Q. Did he have any other visits with you at Neverland?
A. No.
Q. Did you talk with your mother, prior to that first week that you slept with Mr. Jackson with your sister, about the sleeping arrangements at all?
A. Well, yeah, the first day that we got there, to Neverland Ranch -- you know, I think we got there in about the afternoon. We hung out a bit. When it was time to go bed, I asked Michael if I could stay with him in his room. And then Michael and I went to -- mom was staying in a guest room. We went to her room and I asked her. Michael asked her if that was okay. And she said yes.
Q. All right. Now, you asked Michael Jackson if you could share his room with him. Now, what caused you to do that? You were seven years old. What caused you to ask him if you could stay with

him in his room?
A. Well, it's the same way with any child. When you -- you know, when you have a best friend or a new friend that you found, you always want to stay in the same room with them.
Q. He was in his mid 30s; is that right?
A. Yes, I guess so.
Q. Had you ever crawled into bed with a 30-year-old man prior to that day?
A. My father.
Q. Okay.
A. But other than that, no.
Q. Any person who you had just met?
A. No.
Q. All right. And in fact, throughout your entire adolescent years, you had never slept with any other man other than Michael Jackson and your father; is that correct?
A. Never slept in a bed with any other man, no.
Q. Now, you had a conversation with your mother about where you would sleep that night, that first time. Again, you're seven years old; is that right?
A. Yeah.
Q. Did your mother talk to you about perhaps you should stay with her in the guest cottage?
A. No.
Q. Was she the one who suggested that your sister should go with you and stay in that room with 9109

Mr. Jackson?
A. I don't remember that. I remember Chantel, my sister, wanted to as well.
Q. Had your mother actually seen the room that -- or the rooms that constitute Mr. Jackson's bedroom suite?
A. Yeah. When we first got to the ranch, he took us around, a tour around everywhere, in his room.
Q. So she understood at the time that the bedroom suite was composed of a number of different rooms with actually beds in at least two of them; is that right?
A. Yes.
Q. And there were bathrooms on both levels; is that right?
A. I don't think there's a bathroom on the second level. There's two on the first level.
Q. Was your mother under the impression that you would be sleeping in a different location from Michael Jackson when you first went to his room at age seven?
A. Not that I know of.
Q. All right. Had you talked with her the next day about where you actually slept that prior night?
A. No, not that I remember.
Q. At any time during that first week when you were there at age seven, did you ever tell your 9110

mother that you actually shared the bed with Michael Jackson?
A. I'm sure.
Q. You think you did?
A. Yeah.
Q. Do you remember your mother's response to hearing that?
A. No.
Q. Did your sister, in your presence, tell your mother that she was also sleeping in the same bed with Michael Jackson at age ten?
A. I can't say for sure. I don't remember, but --
Q. At any time during that first week that you were there, did you have any conversation with your mother wherein your mother expressed concern about where you were sleeping?
A. No.
Q. Were you seeing your mother during the day?
A. Yes.
Q. All right. After that first week, did you go back to Australia?
A. Yeah.
Q. You were in Australia for what, about a year?
A. I think so. I don't remember.
Q. And then you returned to the United States for good at that point? 9111

A. Well, we had a couple of visits back to America before we returned in ‘91 for good.
Q. With what rate of frequency did you continue to visit with Michael Jackson after returning at age eight?
A. I would say twice a year.
Q. All right. And during those periods of time, you would stay for up to a week at a time, no?
A. Yeah.
Q. Were there times that you actually stayed at Neverland for many weeks at a time?
A. Not that I can remember. Like I said, a week to a week and a half. Maybe it was two weeks, but I don’t remember any more than that.
Q. Were there periods of time when you were at Neverland and working with Mr. Jackson on dance routines?
A. No. I mean, we would mess around and dance a little bit in the studio every now and then, yes.
Q. Was there ever an occasion where you were on the dance floor with Mr. Jackson and he was showing you a routine and he grabbed your crotch in a manner similar to how he would grab his own crotch while doing those performances?
A. No, that’s not true.
Q. You have no recollection of that?
A. No.
Q. That didn’t happen? 9112

A. No.
Q. During the period of time from age eight on, did you stay in Mr. Jackson's room virtually the entire time?
A. I'm sorry?
Q. The times that you would come and visit Mr. Jackson from age eight on --
A. Uh-huh.
Q. -- did you stay in Mr. Jackson's room?
A. Yes.
Q. All right. By age 11, you were asked to give a deposition, were you not?
A. Yes.
Q. And you actually did give testimony under oath in the presence of two prosecutors from Los Angeles; is that right?
A. Yes.
Q. There was also an attorney present who represented you; is that correct?
A. Yes.
Q. All right. After that deposition, did you continue to sleep in Mr. Jackson's room?
A. Yes.
Q. Did you continue to sleep in Mr. Jackson's bed?
A. Yes.
Q. All right. Now, during that period of time from age eight until age 11, did you frequently 9113

visit Mr. Jackson?
A. From -- I'm sorry, from eight to 11?
Q. Age eight to age 11, did you frequently
visit Mr. Jackson?
A. Yeah. Same amount of time. Maybe twice a
year, or every couple of months, something like
that.
Q. Is it safe to say that during each of those
visits, you stayed in Mr. Jackson's room?
A. Yes.
Q. All right. Were there ever occasions where
you went to visit Mr. Jackson when your mother
wasn't there?
A. Yes. I think a couple of times he had an
apartment in Century City that my mother would drop
me off and I'd stay for, you know, a night or so by
myself with Michael there.
Q. Was that a place called "The Hideout"?
A. I remember a place called "The Hideout."
I don't remember if it was that place.
Q. Were there more places where you visited and
stayed overnight in Century City?
A. Yeah, there was a hotel that was -- I mean,
I'm sorry, an apartment that was in Westwood and
then one that was in Century City.
Q. Was there a place where Mr. Jackson was
living in, either Westwood or Century City, where
there was a hotel across the street? 9114

A. Yes.
Q. And would it be the case that periodically you would visit him there, your mother would stay in the hotel, but you would stay with him in his room?
A. One time when we came over, we stayed -- I think it was the Westwood apartment, his Westwood apartment. There was a Holiday Inn that was across and we stayed there most of the time. And then certain nights I would go over to Michael and stay with him.
Q. Mr. Robson, were there ever occasions where you stayed with Michael Jackson where you didn't sleep with him in his bed?
A. Yes.
Q. How often did that happen?
A. I don't know. Maybe three, four times.
Q. Three or four times over years we're talking about; is that right?
A. Yes.
Q. So, for the most part, the overwhelming majority of times you shared his bed with him?
A. Yes.
Q. Now, at any time did you start to develop conversations with your mother about the propriety of sleeping with this man who's now well into his 30s?
A. No.
Q. Did you consider it unusual at all? 9115

A. No.
Q. Did your mother consider it unusual?
A. No.
Q. Did you ever talk to your father about it?
A. Yeah.
Q. You talked to your father about your sleeping with Michael Jackson?
A. No, I mean, you know, everybody knew, and nobody ever said that it was -- we never talked about it being unusual or anything like that.
Q. Did your mother ever ask you if anything inappropriate happened in bed with him?
A. No.
Q. Did she simply assume nothing happened?
A. Yes.
Q. You're telling us nothing happened; is that right?
A. Yes.
Q. All right. What you're really telling us is nothing happened while you were awake; isn't that true?
A. I'm telling you that nothing ever happened.
Q. Mr. Robson, when you were asleep, you wouldn't have known what had happened, particularly at age seven, would you have?
A. I would think something like that would wake me up.
Q. On those occasions that you were at 9116

Neverland, you used to play very actively, did you not?
A. Yes.
Q. All right. There was a lot to do at Neverland; is that right?
A. Yes.
Q. And on some days you were actually working out heavily with the defendant, engaged in dance routines, weren't you?
A. Yeah.
Q. And on other occasions you would be playing very actively. There's just a host of things that a seven-year-old can do and have fun with; is that right?
A. Yes.
Q. And you can play -- all manner of video games that exist anywhere in the world can be found at Neverland; is that right?
A. Yeah.
Q. And there's video games, there's movies, there's a zoo, there's all kinds of parks, and the trains. You're very active during the entire day; is that right?
A. Yes.
Q. And at night you'd go back to his room and you'd play more video games or you'd watch television; is that right?
A. Yes. 9117

Q. And there's movies of any kind that you can see with Mr. Jackson?
A. Yes.
Q. Did your mother ever complain to you that you were losing contact with her and that she was losing her contact with you? Did she ever say that?
A. No.
Q. In fact, she was very upset over the fact that she was losing her ability to have access to her son, wasn't she?
A. No.
Q. Was there, in fact, a shower at Neverland in the suite, the bedroom suite?
A. Yes.
Q. But you didn't use it?
A. I used it by myself.
Q. Was he in the room while you were using it?
A. In the bedroom, not in the shower room, which had its own door.
Q. You were seven years old when you started using that shower; is that correct?
A. Yes.
Q. When did you stop sleeping with Mr. Jackson?
A. I guess when I was about, I don't know, maybe 13, 14, something like that.
Q. Why did you stop?
A. I didn't stop sleeping with him. I just haven't spent the night with him, I mean, in his 9118

room or anything like that since then, I don't think.
Q. You haven't gone back to Neverland since you were 13?
A. I have. Not with him.
Q. Have you gone back to Neverland since you were 13 and actually stayed overnight?
A. Yes.
Q. On how many occasions since you were 13?
A. A lot. Same thing. 20, 25. Something like that.
Q. Did he take you to other locations such as Las Vegas?
A. Yes.
Q. And while you were at Las Vegas, you went to see Siegfried & Roy?
A. Yes.
Q. And being with Mr. Jackson back then was a very exciting experience, wasn't it?
A. Yes.
Q. He was able to go anywhere he wanted in Las Vegas and take you with him?
A. Yeah.
Q. Did you start to dress like him?
A. I always did before I met him.
Q. All right. And during the time that you were with him, he enjoyed you wearing clothing similar to what he wore; is that correct? 9119

MR. MESEREAU: Objection; calls for speculation.
THE COURT: Sustained.
Q. BY MR. ZONEN: Did he ever tell you that he wanted you to dress like him?
A. No.
Q. Did he ever give you hats similar to the type of hats that he wears?
A. Because I would ask for them.
Q. And did you, in fact, wear those types of hats when you were out with him?
A. Yes.
Q. And when you were in Las Vegas, did you wear those hats as you wandered around Las Vegas with him?
A. Yes.
Q. When you were in Las Vegas, where did you stay?
A. We stayed at The Mirage Hotel.
Q. Who went to Las Vegas with you?
A. My mother.
Q. Just your mother?
A. Yeah.
Q. Was your sister with you at all?
A. No.
Q. Did your sister move to the United States with you?
A. Yes. 9120

Q. But she didn't go to Las Vegas with you?
A. Well, we weren't -- we didn't live in the United States at that point. We still lived in Australia. We were out on a visit.
Q. When you were in the hotel in Las Vegas, it is true that you stayed with Mr. Jackson in his bed?
A. Yes.
Q. And your mother stayed in a separate room; is that right?
A. Yes.
Q. Now, were there other boys that you knew about who were sleeping with Michael Jackson during that time?
A. No, not that I knew of. I mean, the only other time I was around other boys, other kids at the ranch, I think once or twice, and, you know, we'd all stay in the room and we'd kind of fall asleep on couches, beds, cots, wherever they were.
Q. Did you know Jordie Chandler?
A. Yeah.
Q. You just described -- you just told the jury that -- that you knew Jordie Chandler's mother; is that right?
A. Yes.
Q. What's her name?
A. I know her -- June. June Chandler.
Q. All right. Describe her for us. What does she look like? 9121

A. She has dark, almost black hair. Sort of --
sort of brown eyes. I think some -- kind of like
a -- a little bit of a darker complexion.
Q. Slim woman? Heavy woman?
A. Slim woman.
Q. Now, do you remember her son Jordie?
A. Yes.
Q. On how many occasions did you meet Jordie?
A. Once.
Q. Only one time?
A. That's all I can remember, yes.
Q. And did you spend the night with Jordie?
A. Yeah, we all stayed in Michael's room.
Q. You say "we all stayed." Were there other
people there besides Jordie?
A. Yeah, Macaulay Culkin was there and his
brother Kieran Culkin.
Q. Now, Macaulay Culkin has sisters, does he
not?
A. I don't know.
Q. Were there any girls that were staying with
you that night?
A. Not that I remember.
Q. Were there ever any girls, other than your
sister, at age seven, who actually spent the night
in Mr. Jackson's room with you during the years that
you knew him and spent the night in his room?
A. Yes. 9122

Q. Who?
A. There was Brandy Jackson.
Q. I'm sorry?
A. Brandy Jackson, who is Michael's niece.
Q. And she spent the night on how many occasions with you?
A. Only one that I can remember.
Q. One night?
A. Yeah.
Q. All right. So we're talking about a period of about five years; is that right?
A. Yeah.
Q. In the five years, you can remember Brandy. Who else do you recall?
A. As far as females?
Q. Yes.
A. My sister. Brandy. That's all I remember.
Q. Now, your sister actually never went back into that room and spent the night with you after that first week when you were seven; is that correct?
A. Yeah, not that I can remember.
Q. Is it an accurate statement to say that the boys who stayed there for long periods of time started getting pretty rowdy?
A. Rowdy?
Q. Yeah.
A. What do you mean? 9123

Q. Well, goof off, and simply kids who weren't
under a lot of supervision?
A. Oh, yeah. I mean, you know, boys will be
boys. We'd go around and have fun.
Q. Loud and boisterous?
A. Yes.
Q. And on occasions break things?
A. Accidentally, yeah.
Q. And be somewhat disobedient?
A. Some of them maybe.
Q. Were there ever occasions where you and Mr.
Jackson were throwing stones at the lion in the zoo?
A. Stones at the lion. Yeah, I think so.
Q. That did happen, didn't it?
A. Yeah.
Q. Mr. Jackson was throwing stones at the lion
in your presence; is that right?
A. Yes.
Q. Was he encouraging you to do the same thing?
A. Yeah. Little pebbles, but, yeah.
Q. They weren't exactly pebbles. They were
good-sized stones, weren't they?
A. No, I remember small stones.
Q. It was designed to irritate the lion, wasn't
it?
A. Yeah, we were trying get him to make some
noise.
Q. Because it was entertaining to Mr. Jackson 9124

and to you?
A. Yeah.
Q. How old were you at the time?
A. I think I would have been seven or eight.
Q. Were there any other kids around at that time?
A. No. Maybe my sister.
Q. Now, you said that you spent one night that you can recall with Jordie Chandler. Do you know Brett Barnes?
A. Yes.
Q. Did you ever spend a night with Brett Barnes?
A. No.
Q. Did you ever meet Brett Barnes?
A. Yes.
Q. How old were you when you met Brett Barnes?
A. I think I would have been nine. It was soon after we moved to America.
Q. On that occasion when you spent the night with Jordie Chandler, Macaulay, and his brother, was Brett Barnes there as well?
A. No.
Q. Do you know if Brett Barnes spent nights with Michael Jackson?
A. I don’t know.
Q. Do you know if they ever shared a bed?
A. I don’t know. 9125

Q. Did Michael Jackson ever talk to you about the propriety of sleeping with him?
A. Could you rephrase that?
Q. Did Michael Jackson ever have a conversation with you wherein the subject of the conversation was that it was okay for you to sleep with a 30-something-year-old man?
A. Yeah.
Q. He did?
A. We would both talk about it.
Q. Really. From what age? When did that first conversation happen?
A. I don't remember.
Q. Were you seven?
A. I don't remember.
Q. Was it the first week that you were there?
A. No.
Q. Do you think it was soon after you moved to the United States?
A. I really don't remember.
Q. What was the nature of that conversation?
A. I don't remember an exact conversation. I'm sure it's just something, you know, we talked about at some point; that -- you know, that it's fine.
Q. Did Mr. Jackson ever tell you that you were family to him?
A. Yes.
Q. Did he tell you that often? 9126

A. Yes.
Q. Did he tell you that he would take care of you?
A. No.
Q. Did he tell you he would protect you?
A. Yes.
Q. All right. Did he ever tell your mother in your presence that you were family?
A. Yes.
Q. And that your mother could trust him?
A. Yes.
Q. In fact, the word “trust” came up in many conversations with Michael Jackson, did it not?
A. Yeah, we’d talk about trust in, you know, other people, and that sort of thing.
Q. But he encouraged you particularly to trust in him, did he not?
A. No, there was no particular emphasis on it.
Q. How much time did you spend with Macaulay Culkin?
A. Um, there was that -- the trip that we spoke of, that I think was a couple of days. I think I was with him one other time at the Century City apartment, which was a night. I think that was about it.
Q. Now, the trip you described, that trip was where now?
A. Which trip? 9127

Q. Maybe I misheard you. Did you say “the trip I just spoke of”?
A. Oh, the one I spoke of. That was the one where I said where Jordie Chandler was there at Neverland.
Q. That was Neverland?
A. Yeah.
Q. He was there and you were there for what period of time together? Just one night?
A. No, it was a couple days.
Q. Did it go over more than one night?
A. Yes.
Q. On both of those nights, did both of you spend that time in Mr. Jackson’s room?
A. Yes.
Q. Now, did either one of you actually spend the night in Mr. Jackson’s bed with Mr. Jackson?
A. No. I think -- from I can remember -- I can only remember one night in particular, and I remember myself and Kieran Culkin, I think, slept on Michael’s bed, and Michael slept on a cot, or something, on the side of us, and I don’t know, Macaulay fell asleep on a couch or something.
Q. I’m sorry.
A. Go ahead, no.
Q. The Century City apartment, I believe you said you spent some time there with Macaulay Culkin as well? 9128

A. Yeah. I think it was one night there, yeah.
Q. Was his brother there?
A. I don't remember for sure. I don't remember him being there.
Q. Mr. Jackson would periodically kiss you, would he not?
A. No.
Q. Periodically hug you?
A. Yes.
Q. Touch you?
A. Hug me. That would be --
Q. Put his hands through your hair?
A. No.
Q. Touch you about the head and the face?
A. Yeah.
Q. Did he ever kiss you on the cheek?
A. Yeah.
Q. Did he ever kiss you on the lips?
A. No.
Q. Do you remember any other children being there about that time?
A. Which time?
Q. From the time that you were seven until the time you stopped sleeping there at age 13.
A. Being at the ranch?
Q. Yes.
A. Other than we spoke of, no.
Q. Did you know Blanca Francia's son? 9129

A. No. I knew of him. But I don't think I ever met him.
Q. What was his name?
A. I don't know.
Q. Does "Jason" sound familiar?
A. Yes, but I think because I've heard it recently. But, yeah.
Q. Now, were there ever occasions after you were 14 years old that you came and stayed at Neverland Ranch and Michael Jackson was, in fact, there?
A. Yes.
Q. And you did not stay with him in his room?
A. The only time I can remember was a time I went up there with a few family members and friends, and we didn't know he was going to be there. And, you know, we sort of ran into him and hung out a bit, and, no, I didn't sleep in his room.
Q. Did you ever talk to Michael Jackson about the fact that at some age it was too late for you to be sleeping with him?
A. No.
Q. Did you ever have a conversation with him about whether or not you should continue to sleep in his bed?
A. No.
Q. Remember the last time you slept in his bed?
A. The last -- I think it might have been when 9130

I was about 14. It was at a Sheraton Hotel in Los Angeles.
Q. And how did you happen to be there with him?
A. I stayed with him for I think it was just one night.
Q. Did you call or did he call you?
A. I don't remember.
Q. Was your mother there?
A. No.
Q. Do you remember how you got there?
A. No, I don't.
Q. Were there occasions that Mr. Jackson would summon you to Neverland Ranch?
A. Summon me?
Q. Yes. Call you up and ask you to come and be there; invite you to Neverland Ranch?
A. Invite us, yeah.
Q. All right. Without your mother?
A. Like ask if I could come without my mother, do you mean?
Q. Or just ask you to come, and you came by yourself.
A. The only time I remember being there -- sorry. The only time I remember being there was that -- that trip that we spoke of by myself with Jordie Chandler and Macaulay.
Q. On the occasions that you stayed in bed with Mr. Jackson, would you ever cuddle in bed? 9131

A. No.
Q. Would you lie next to one another?
A. No.
Q. Would you touch?
A. No.
Q. Would you consider it to have been
inappropriate to have cuddled in bed?
A. Sorry?
Q. Would you have considered it to be
inappropriate to have cuddled in bed?
A. No.
MR. ZONEN: I have no further questions.

REDIRECT EXAMINATION
BY MR. MESEREAU:
Q. Mr. Robson, the prosecutor for the
government asked you about your dressing like
Michael Jackson.
A. Uh-huh.
Q. And I believe you said something about you
dressed like him before you met him.
A. Yes.
Q. Would you please explain that?
A. Well, you know, I became a fan of Michael
Jackson when I was two years old, when I saw the
making of “Thriller,” and started dancing like him
when I was, you know, three or four. So I think
when I was about five, I started, because I was 9132

imitating him. I got costumes made and that sort of thing. So I would dress like him from that point, before I met him.
Q. Did Mr. Jackson ever encourage you to dress like him?
A. No.
Q. Did you dress like him because you were a fan and friend of his?
A. Yes.
Q. Now, the prosecutor talked about your throwing pebbles at a lion.
A. Uh-huh.
Q. Would you please explain what you were describing.
A. Well, there's a lion that was in a cage. And, you know, went to see the lion roar, and it's pretty much just sitting there, you know, not doing anything. So we picked up a couple little stones and threw them at the cage, you know.
Q. And the prosecutor used the word "stones," and you said "pebbles." How big were these things?
A. Little, you know -- I don't know, quarter-inch sort of things.
Q. Were you trying to hurt the lion?
A. No.
Q. To your knowledge, was Mr. Jackson trying to hurt the lion?
A. No. 9133

Q. Okay. The prosecutor asked you questions
about whether or not you were considered family.
Did you consider yourself to be part of Mr.
Jackson's family?
A. Yeah, I mean, in a friendship sort of way.
Because we were that close. It was like family.
Q. And did you use the word "family" once in a
while --
A. Yes.
Q. -- when you spoke to him?
A. Yes.
Q. Did you hear your mother or sister using the
word "family"?
A. Yes.
Q. Did you think anything was strange about
that?
A. No.
Q. The prosecutor for the government asked
about Mr. Jackson giving you a kiss on the cheek.
A. Uh-huh.
Q. And you said that happened sometimes?
A. Yes.
Q. Did you think there was anything
inappropriate about that?
A. No.
Q. Did you do it in front of your mom?
A. Yes.
Q. Did you do it in front of your sister? 9134

A. Yes.
Q. Did your mother kiss him on the cheek?
A. Yes.
Q. Did your sister kiss him on the cheek?
A. Yes.
Q. Did you kiss Mr. Jackson on the cheek?
A. Yes.
Q. Did your mother used to hug Mr. Jackson?
A. Yes.
Q. Did Mr. Jackson used to hug your mother?
MR. ZONEN: I'll object as irrelevant what happened with his mother.
THE COURT: Overruled. Go ahead.
Q. BY MR. MESEREAU: Did Mr. Jackson used to hug your mother?
A. Yes.
Q. Did your sister used to hug Mr. Jackson?
MR. ZONEN: I'll object as leading as well.
THE COURT: Overruled.
Q. BY MR. MESEREAU: Did your sister used to hug Mr. Jackson?
A. Yes.
Q. And would you see Mr. Jackson hug your sister?
A. Yes.
Q. Did you ever think there was anything inappropriate about Mr. Jackson hugging any member of your family? 9135

A. No.
Q. Did you ever think it was inappropriate to see any member of your family hug Mr. Jackson?
A. No.
Q. Now, you said your sister would sometimes stay in Mr. Jackson's room, correct?
A. Yes.
Q. And how often do you recall that happening?
A. I remember it just within that first trip we were there. So it was -- it was, you know, three or four nights or something like that.
Q. And you mentioned Brandy. Is that who you mentioned?
A. Yes.
Q. Who was Brandy again?
A. She was Michael Jackson's niece.
Q. You saw Brandy staying in his room?
A. Yeah.
Q. What's the largest number of kids you ever saw stay in Mr. Jackson's room, if you remember?
A. Yeah, probably four to five.
Q. And what do you recall the children doing in his room?
A. Well, before we went to sleep, same sort of things. We'd play video games, watch movies. Have pillow fights. You know, yeah.
Q. Did you ever see anything of a sexual nature between Mr. Jackson and any of those children? 9136

A. Never.
Q. Now, the prosecutor mentioned Macaulay Culkin. Did you get to know Macaulay Culkin at Neverland?
A. Yeah. I mean, we hung out a little bit, yes.
Q. Was that where you first met him?
A. I think I might have met him on a -- on a set of a commercial or one of his videos or -- or, no, I think I met him on “Black or White” the first time, the music video.
Q. Did you stay in contact with Mr. Culkin?
A. No.
Q. Is he someone you communicate with on a regular basis?
A. No.
Q. Okay. Now, would you see Mr. Culkin’s family at Neverland?
A. Other than his brother Kieran, I don’t remember.
Q. And approximately how old was his brother, do you think?
A. At that time, he would have been, I guess, nine or ten, or something like that.
Q. Have you seen Mr. Jackson hug other children at Neverland?
A. Yes.
Q. Have you seen other children hug Mr. Jackson 9137

1 at Neverland?
2 A. Yes.
3 Q. Have you ever thought any of this was
4 inappropriate?
5 A. No.
6 Q. Have you seen Mr. Jackson kiss children at
7 Neverland?
8 A. On the cheek, yes. Or on the head, or on
9 the top of the head, something like that.
10 Q. Ever seen kids kiss Mr. Jackson?
11 A. Yes.
12 Q. Any of that ever look inappropriate to you?
13 A. No.
14 Q. Have you seen lots of children visit
15 Neverland on occasion?
16 A. Yes.
17 Q. And what do you mean?
18 A. I think we were there once when he had one
19 of his gatherings, like a Heal the World Foundation
20 thing where he had a bunch of kids come up there
21 and -- you know, and have the day there.
22 Q. And how many kids are you talking about, do
23 you think?
24 A. Probably about 100 or 50. 75 to 100,
25 something like that.
26 Q. Were there adults with those children?
27 A. Yes.
28 Q. And you said, “Heal the World.” What did 9138

that mean to you?
MR. ZONEN: I'm going to object as exceeding the scope of the direct examination, and irrelevant, and beyond the scope of his knowledge.
THE COURT: Overruled.
You may answer.
THE WITNESS: Could you repeat the question?
Q. BY MR. MESEREAU: Yeah. What was "Heal the World," as far as you remember?
A. As far as I knew, it was a foundation or a charity that Michael had created that, you know, raised money for kids with illnesses. I don't know exactly what kind, but --
Q. Did you interact with any of these kids that visited that day?
A. I may have, yeah, I mean, waved at them or met a couple of them or something like that.
Q. Did you see Mr. Jackson hugging other children?
A. Yes.
Q. Did you see them hugging him?
A. Yes.
Q. Did you see Mr. Jackson kiss children?
A. Yeah.
Q. Have you seen them kiss him?
A. Yes.
Q. Ever seen anything inappropriate?
A. No.

Q. Did you see Mr. Jackson hug adults who were with those children?
A. Yes.
Q. Did you see adults hug Mr. Jackson who were with those children?
A. Yes.
Q. Ever think any of that was inappropriate?
A. No.
Q. Now, the prosecutor for the government asked you questions about whether he touched your hair.
A. Uh-huh.
Q. Do you recall Mr. Jackson ever touching your hair?
A. I can't recall an exact thing, but it seems like something he might have done at some point.
Q. Do you ever recall Mr. Jackson doing anything inappropriate with your hair?
A. No.
Q. Ever seen Mr. Jackson touch another child on the head?
A. Yes.
Q. Have you seen that many times?
A. Many times.
Q. Did it ever seem like anything inappropriate was going on when you saw that?
A. No.
Q. The prosecutor asked about disobedience at Neverland, and you said you did see kids act up 9140

sometimes?
A. Yeah, I mean, act up as far as kids go. I mean, you know, driving golf carts around and throwing water balloons at each other, and things that, I guess, I don't know, maybe parents would get upset about at some point, but that was the extent of it.
Q. And did you engage in some of that, too?
A. Yes.
Q. Did you ever see Michael Jackson in a water balloon fight with kids?
A. Yes.
Q. Ever see kids throw water balloons at Michael?
A. Yes.
Q. Ever see Michael throw water balloons at kids?
A. Yes.
Q. Did you ever see Michael in golf carts with kids?
A. Yes.
Q. When you used to play at Neverland during the day, would Michael often be with you?
A. Yes.
Q. And what would Michael do with you?
A. We'd go on rides together, you know, where we'd drive around in the golf cart together, look at animals together, watch movies together. 9141

Q. Did you see Mr. Jackson act in a similar way with other children?
A. Yes.
Q. Ever see anything inappropriate go on when he was doing any of these things?
A. No.
Q. Now, how often do you recall your mother going to Neverland with you?
A. It's been every time except for that one time that I spoke of when I was there with Jordie Chandler and Macaulay and I.
Q. What do you recall seeing your mother do at Neverland?
A. A lot of the same things with us.
Q. Would she sometimes be with Mr. Jackson when all the kids were playing?
A. Oh, yes. She was playing along with us.
Q. Now, you mentioned visiting an apartment in Century City with Mr. Jackson, right?
A. Yes.
Q. And what do you recall doing in the apartment with Mr. Jackson?
A. Same sort of things. He had arcade games there. You know, candy. We'd eat, we'd watch, you know, T.V. shows, Stooges. Hang around, play games, you know.
Q. Did you ever see Mr. Jackson do anything inappropriate with any child at that apartment? 9142

A. No.
Q. Where else have you been with Mr. Jackson?
A. Like I said, we covered Las Vegas. Westwood apartment, Century City apartment. Sheraton Hotel. He came and stayed at my place once.
Q. Where was that?
A. That was in Hollywood. It was -- my mother and I had a condo, and my sister.
Q. Did you see Mr. Jackson do anything inappropriate at any of these locations?
A. No.
Q. Ever seen Mr. Jackson touch any child in a sexual way at any of these locations?
A. Never.
Q. Did Mr. Jackson ever touch you inappropriately in any of these locations?
A. No.
Q. Now, have you been following media reporting in this case?
A. Yeah. On and off.
Q. You're aware of allegations that were made that Mr. Jackson --
MR. ZONEN: I'm going to object as leading and exceeding the scope of the direct -- cross.
THE COURT: I don't know what the question is yet.
Q. BY MR. MESEREAU: Okay. You've been following these reports that somehow Mr. Jackson was 9143

seen inappropriately touching you?
A. Yes.
Q. What do you think of them?
A. I think it's --
MR. ZONEN: I'll object.
I'll withdraw the objection.
THE WITNESS: I think it's ridiculous.
MR. MESEREAU: No further questions.

RECROSS-EXAMINATION
BY MR. ZONEN:
Q. When Mr. Jackson stayed with you at your Hollywood apartment, how old were you?
A. I would say 11 or 12.
Q. Did he share your bed with you at that time?
A. Yes.
Q. All right. There was one bed that you had in your room; is that correct?
A. No, it was actually -- it was a -- like a futon that was our couch down in the living room.
Q. So both of you stayed on the couch in the living room?
A. Yes.
Q. Was that couch your normal residence? Was that where you normally slept?
A. I think that's where I was sleeping at that point, yeah.
Q. You think that's where you were sleeping? 9144

A. Yes.
Q. You slept in other rooms at different times?
A. Yeah.
Q. Now, all those places that you mentioned are all places that you mentioned, a series of places, you had been with Michael Jackson. On all of those occasions you slept in the same bed with him; is that correct?
A. Yes.
Q. Do you think that's appropriate, for a 35-year-old man to be sleeping with an eight-year-old boy?
A. I don't see any problem with it.
Q. Suppose the 35-year-old man has an obsession for sexually explicit material. Would that change your view?
MR. MESEREAU: Objection; 352.
MR. ZONEN: It's in evidence.
MR. MESEREAU: Calls for speculation; assumes facts not in evidence.
THE COURT: I'm going to sustain the objection because of the use of the term "obsession."
Q. BY MR. ZONEN: If you knew that the person, the 35-year-old man who was sleeping with an eight-year-old boy, possessed a great quantity of sexually explicit material, would that cause you concern about that person's motivations while he was 9145

in bed with the boy?
A. Yes.
MR. ZONEN: No further questions.

FURTHER REDIRECT EXAMINATION
BY MR. MESEREAU:
Q. If you had known Michael Jackson, as a grown man, was reading Playboy, Hustler, Penthouse, magazines like that showing naked women, would that have concerned you?
A. No. That's what I was going to say afterward. Depends on what kind of material, what kind of pornographic material you were talking about.
Q. Would that have concerned you?
A. No.
MR. MESEREAU: No further questions.
MR. ZONEN: May I approach the witness?
THE COURT: Yes.

FURTHER RECROSS-EXAMINATION
BY MR. ZONEN:
Q. I'd like to show you a couple exhibits, 841 and 842, that have been shown previously in this court to this jury.
Let's start with one titled "Boys Will Be Boys." I'd like you to take a look at a few of the pages. Just go ahead and start turning pages, 9146

please.
Stop there for a moment.
Would you describe the picture on the right side?
A. There's a young boy with his legs open and he's naked.
Q. All right. The picture prominently displays his genitalia, does it not?
A. Yes.
Q. That boy looks, to you, to be approximately how old?
A. Maybe 11 or 12.
Q. That's how old you were when you were sleeping with Michael Jackson; is that right?
A. Yes.
Q. Go ahead and flip a couple of more pages, if you would.
You can stop right there, the next page.
What's the picture on the left show?
A. Just a young boy who's naked standing on a rock.
Q. His genitalia is prominently displayed in that picture; is that correct?
A. Yes.
Q. Appears that that child is about the same as the other one?
A. Yes.
Q. Flip a couple more pages. Please keep 9147

going.
Okay. Stop right there.
What's in that two pages, series of two pages?
A. There's a boy, about the same age, 11 or 12, who's naked.
Q. All right. And in those pictures his genitalia is prominently displayed as well; is that correct?
A. Yes.
Q. In fact, if you'll take just a second and strum through the balance of that book -- you can do it fairly rapidly, if you would. You don't have to go page by page, but as you wish.
Is it true, Mr. Robson, that all of the pictures in that book are of boys about the same age?
A. Yes.
Q. 10, 11, 12 years old?
A. Yes.
Q. And that many of the photographs, if not most of the photographs, depicted in that book are of boys nude; is that correct?
A. Yes.
Q. And in fact, in most of those pictures, the genitalia is prominently displayed; is that right?
A. Yes.
Q. Would you be concerned with a person who 9148

possesses a book like that?
A. No.
Q. Would you be concerned about having your 12-year-old child in bed with a person who possesses a book like that?
A. No.
Q. You would have no such concern?
A. No. It's -- to me, it doesn't -- it's not a pornographic book. It's sort of, you know -- I don't know, just a book.
Q. I'd like -- and I'd like to show you Exhibit 596, please. Take a moment and look at that book.
Let's stop there for a moment.
That's the first, in fact, picture in that book; is that correct?
A. I didn't notice, no.
Do you want me to go to the first picture?
Q. You know, no, you can pick any picture, actually. Just go ahead and open the book at random.
Right there.
A. Oh, sorry.
Q. Is it a fact, as you look through that book, what is depicted in that book throughout that book are a series of photographs of two men engaged in sex acts with one another?
A. Yes. 9149

Q. And in fact, the sex acts are all acts of either masturbation, oral sex or sodomy; is that right?
A. From what I saw, yes.
Q. And sodomy, as you understand, is an act of anal sex; is that correct?
A. Yes.
Q. Would you be concerned about a person who possesses that book crawling into bed with a ten-year-old boy?
A. Yes, I guess so.
MR. ZONEN: No further questions.
MR. MESEREAU: May I approach, Your Honor?
THE COURT: Yes.

FURTHER RECROSS-EXAMINATION
BY MR. MESEREAU:
Q. Mr. Robson, I want to show you Exhibit No. 841. It says, “Boys Will Be Boys.” Do you see this?
A. Yes.
Q. Okay. Now, I’d like you to read the inscription on that book, okay? Read it out loud, if you would.
A. Okay. “Look at the true spirit of happiness and joy in these boys’ faces. This is the spirit of boyhood, a life I never had and will always dream of. This is the life I want for my children. MJ.” 9150

Q. Having read that inscription and having looked at this book, would you have any concern being in bed with Michael Jackson if you knew this book was found in his home?
A. No.
Q. Let me show you Exhibit No. 842. Please read out loud the inscription on that book.
A. Is that, “To Michael”? Yeah. “To Michael, from your fan. Kiss, kiss, kiss, hug, hug, hug. Rhonda. 1983.”
Q. You’ve looked through that book - okay? - and it says, “The Boy; A photographic Essay,” right?
A. I didn’t look through that book.
Q. Okay. Why don’t you look through this book the prosecutor showed you, and please say whether or not you would have a problem being in the same bedroom with Michael Jackson based upon what you see in that book and the inscription.
A. No.
Q. Okay. Now, let me show you -- let me show you Exhibit No. 596 that the prosecutor showed you. Just read the cover, if you would.
A. “Man, A Sexual Study of Man. Illustrated With Photographs and Art Prints.”
Q. Okay. Now, you’ve seen those photographs, and you’ve said you were somewhat disturbed by the pictures, right?
A. Well, I wasn’t disturbed by the pictures. 9151

Q. Well, if you -- if you read this book, and
it appeared to be a book dealing with male sexuality
in all different areas, and you knew that this book
existed with hundreds of editions of Hustler,
Playboy, Penthouse --
MR. ZONEN: I'm going to object as leading.
Q. BY MR. MESEREAU: -- would that bother you?
MR. ZONEN: I'm going to object as leading.
THE COURT: Overruled.
You may answer.
THE WITNESS: Can you repeat it?
Q. BY MR. MESEREAU: Sure.
Let's assume that you learned that Michael
Jackson had ten years' worth of Hustler, Playboy,
Penthouse - okay? - magazines, heterosexual-type
magazines, and let's assume that -- have you ever
seen Mr. Jackson's library?
A. Yes.
Q. How many books do you think are in there?
A. Thousands.
Q. And let's suppose in the middle of all those
books you found, "A Sexual Study of Man, Illustrated
With Photographs and Art Prints," okay?
A. Yes.
Q. Putting all this together, would being in
bed with Mr. Jackson concern you?
A. No.
MR. MESEREAU: No further questions. 9152

1 FURTHER RECROSS-EXAMINATION
2 BY MR. ZONEN:
3 Q. Of course nobody's told you where this book
4 comes from, did they?
5 A. No.
6 MR. SNEDDON: Ron?
7 THE COURT: It's time for the break.
8 MR. ZONEN: It's not quarter to.
9 THE COURT: My bailiff told me.
10 (Recess taken.)
11 MR. MESEREAU: Your Honor?
12 MR. ZONEN: Thank you.
13 MR. MESEREAU: I'm going to object that the
14 questions have become cumulative and there's no
15 foundation for it to go any further.
16 BAILIFF CORTEZ: Your microphone is off,
17 sir.
18 MR. MESEREAU: It's beyond the scope. And
19 this is not a character witness.
20 MR. ZONEN: I don't recall which question
21 he's referring to.
22 THE COURT: I'm looking for it myself.
23 I don't have a question.
24 THE REPORTER: Would you like me to read the
25 last question, Judge?
26 MR. ZONEN: I'm prepared to start with a new
27 question.
28 THE COURT: All right. 9153

Q. BY MR. ZONEN: Mr. Robson, the three books that are in front of you that you've already taken a look at, I'd like to go back over the inscription that -- 842 is a book, and you were asked to read that inscription out loud.
Take a look at that inscription again, would you, please?
A. Do you want me to read it again?
Q. No, you don't need to read it again.
Go to the last word, which is the name.
What is the name on that?
A. Rhonda.
Q. Notice anything unusual about the name?
A. No.
Q. Do you notice it's written with quotations on both sides of it?
A. Yes.
Q. Doesn't that usually mean that that's not the name when somebody writes it in quotation marks?
A. Not that I know of.
Q. Have you ever written your name in quotation marks?
A. No.
Q. That's actually from somebody who's not named Rhonda, right?
MR. MESEREAU: Objection; calls for speculation.
THE COURT: Sustained. 9154

Q. BY MR. ZONEN: The three books I've given
you so far to take a look at, they all feature
either boys or adult men, predominantly nude, and
the one on adult men is engaged in sex acts; is that
correct?
MR. MESEREAU: I'm going to object; asked
and answered. This is cumulative.
THE COURT: Overruled.
Q. BY MR. ZONEN: I'm going to show you three
additional books now, if I could. Let's start with
Exhibit 578, if you'll take a look at that one,
please.
MR. MESEREAU: Same objection. Cumulative;
it's not character; it's beyond the scope.
THE COURT: Overruled.
Q. BY MR. ZONEN: I'll start with the first
picture. What do you see right there?
A. I see in the center of the picture, it's a
drawing. And there's a naked man with his genitalia
exposed, and there's kangaroos on either side.
Q. Okay. Go ahead and proceed.
You can keep going. Just keep going through
it.
You can stop.
What you've seen so far are all pictures of
naked men; is that right?
A. Yes.
Q. And pictures with their genitalia 9155

prominently displayed; is that correct?
A. Yes.
Q. Some of these are bondage pictures, are they not?
MR. MESEREAU: Objection; leading.
MR. ZONEN: It's cross-examination, Your Honor.
MR. MESEREAU: Assumes facts not in evidence.
THE COURT: Overruled.
Q. BY MR. ZONEN: Is that correct? Like that picture right there?
A. Yes.
Q. Would you consider this to be homoerotic material?
A. Yes.
Q. Exhibit No. 590-B, take a look at that, please. Tell us the title.
A. "Before the Hand of Man."
Q. Go ahead and take a look at the content of that book.
That's enough.
Pictures of naked young men; is that correct?
A. Yes.
Q. Would you consider that to be homoerotic material?
A. No.

Q. Why not?
A. I look at this more as sort of -- it's about the photography and it's more of an art book, to me.
Q. Do you think it's the background setting that makes it unique?
A. Unique?
Q. Well, they're all naked men in it; is that right?
A. Yes.
Q. Look at No. 599, if you would. You can stop.
Those are all pictures of boys and men, all nude; is that correct?
A. I didn't see any boys. I saw men.
Q. How old do you think is the youngest person you've seen in this book so far?
A. Maybe 19. 18, 19.
Q. Teenaged?
A. Yeah.
Q. Okay. They're all about that age or a little bit older; is that right?
A. Yeah.
Q. Do you think this person is 19?
A. 18, 19, yeah.
Q. Okay. And in fact, in each one of them, genitalia is prominently displayed; is that correct?
A. Yes.
Q. Take a look at this book, please, No. 590-A. 9157

1 You can stop here.
2 What are you taking a look at? Particularly
3 the page you're focused on at the moment, what do
4 you see?
5 A. There's two naked men and it looks like
6 they're about to kiss each another.
7 Q. In this book, in fact, each of the pictures
8 depict two naked men; is that right?
9 A. Yes.
10 Q. And in each instance, both of them are doing
11 something with one another of a sexual nature; is
12 that right?
13 A. No.
14 Q. They're hugging, they're touching, they're
15 caressing?
16 A. They're posing.
17 Q. They're posing. And they're all naked?
18 A. Yes.
19 Q. Would you consider this to be homoerotic
20 art?
21 A. Mind if I look a little more?
22 Q. Go ahead.
23 A. Yeah, it's -- I don't think it's so erotic.
24 It seems more loving in a way, like not so much
25 about sex.
26 Q. Well, how about the one you just turned to?
27 Where is his hand?
28 A. Down his pants. 9158

Q. Okay. You can go ahead and close that one right now.
Mr. Robson, are you concerned about a man possessing these seven books being in bed with a 12-year-old boy?
A. If it was a man I didn't know, maybe. But not Michael.
Q. Is that because you view Mr. Jackson as being, for the most part, asexual?
A. No.
Q. Because you believe that he doesn't really have a sexual interest?
A. I believe that he has a sexual interest in women.
Q. Did you know that he possessed these magazines?
MR. MESEREAU: Objection, Your Honor, he didn't let the witness complete his answer.
THE COURT: Sustained.
MR. MESEREAU: Could the witness complete his answer, Your Honor?
THE COURT: Yes.
THE WITNESS: I believe that he has a sexual interest in women.
Q. BY MR. ZONEN: In women?
A. Yes.
Q. These books don't suggest otherwise?
A. Not necessarily. 9159

Q. All right. Let's go to some other side of the counter.
Exhibit No. 575, have you ever seen this magazine before?
A. No.
Q. Not that specific one. A magazine of that nature?
A. Of that nature, yes.
Q. Okay. And go ahead and turn through it. You can stop there. You don't need to go too much further.
This magazine depicts naked women, or a woman in this case, inserting things inside of her; is that right?
A. Yes.
Q. You would consider this to be very graphic --
A. Yes.
Q. -- in terms of sexually explicit material?
A. Yes.
Q. Exhibit No. 520, tell us the title of that.
A. "Hard Rock Affair."
Q. Okay. Go ahead and turn through a few pages.
You don't have to turn any further.
That magazine depicts graphic sexual pictures of a man and a woman engaged in acts of intercourse and oral sex; is that right? 9160

A. Yes.
Q. You would consider this to be pretty much as hard-core as sexually graphic material goes; is that right?
MR. MESEREAU: Objection. Misstates the evidence; 352.
MR. ZONEN: I asked him what he considered.
THE COURT: Overruled.
You may answer.
THE WITNESS: That's as hard-core as it goes, is that what you asked?
Q. BY MR. ZONEN: Yes.
A. No, not as hard-core as it goes.
Q. What could be more than that?
A. I've seen crazy things, crazy bondage things, all sorts of stuff.
Q. You saw the bondage in the last publication; is that right?
A. Yeah, but they weren't really doing anything.
Q. All right. You would consider bondage to be at the height?
A. Yeah. When it gets into, you know, really unusual stuff.
Q. What's the title of this one? The magazine that we have here is 522.
A. "Double Dicking Caroline."
Q. Go ahead and turn a couple pages. 9161

Okay. That's fine.
These are all photographs of a man and a woman engaged in pretty much anything a man and a woman can do; is that right?
A. Yes.
Q. Including acts of intercourse, acts of oral sex, and the picture right in front of you, acts of anal sex; is that right?
A. Yes.
Q. This you would consider to be fairly hard-core, would you not?
A. Yes.
Q. The title of this one, please? No. 510.
A. "Stiff Dick Lynn." Or "for Lynn," sorry.
Q. "For Lynn"?
A. "Stiff Dick for Lynn."
Q. Let's get our prepositions right.
A. Get it right, yeah.
Q. Go ahead and turn the page, if you would.
A. I never thought I'd have a room of people watching me do this.
Q. That's enough.
You would agree that this is a depiction of a man and a woman engaged in virtually every variation that a man and woman can do with one another; is that right?
A. Yes.
Q. Sexually. 9162

1 The collective material that you have just
2 been shown does not cause you a moment of pause when
3 you think about the prospect of this person who
4 possesses all of this crawling into bed with a
5 ten-year-old boy?
6 A. No.
7 Q. And you would allow a child to crawl into
8 bed with such a person?
9 A. If I knew the person, yes.
10 Q. If you knew them?
11 A. Yes.
12 Q. Your own child, you'd have no problem
13 sleeping with a 35-, 40-year-old man?
14 A. If I knew the person well, no.
15 MR. ZONEN: No further questions.
16
17 FURTHER REDIRECT EXAMINATION
18 BY MR. MESEREAU:
19 Q. Mr. Robson?
20 A. Yes.
21 Q. That's your fiancee right there, correct?
22 A. Yes.
23 Q. You are heterosexual, correct?
24 A. Yes.
25 Q. You are a close friend of Michael, correct?
26 A. Yes.
27 Q. By the way, did Michael Jackson ever -- oh,
28 I'll ask from there. 9163

When you were a young child, did Michael Jackson ever show you any sexually explicit material?
A. No.
Q. Did you ever see Michael Jackson show sexually explicit material to any child?
A. No.
MR. MESEREAU: May I approach, Your Honor?
THE COURT: Yes.
Q. BY MR. MESEREAU: Now, let me show you again Exhibit No. 841. Do you see that?
A. Yes.
Q. And have you had a chance to flip through that book?
A. Yes.
Q. Okay. Let me show you again Exhibit No. 596. It says, “A Sexual Study of Man.” Do you see that?
A. Yes.
Q. Have you had a chance to flip through that book?
A. Yes.
Q. Okay. And let me show you again Exhibit No. 842, “A boy; A Photographic Essay,” okay? And that’s the one with the inscription, “To Michael, from your loving fan, Rhonda,” okay?
A. Yes.
Q. And have you had a chance to flip through 9164

1 that book?
2 A. Yes.
3 Q. In fact, you see young children with rather
4 innocent photographs of young boys, correct?
5 MR. ZONEN: I'm going to object as leading,
6 Your Honor.
7 THE COURT: Overruled.
8 Q. BY MR. MESEREAU: Innocent photographs of
9 young boys in various situations, right?
10 A. Yes.
11 Q. Okay. You see a young boy hanging from a
12 tree, right?
13 A. Yes.
14 Q. You see a young boy sitting outside a door,
15 right?
16 A. Yes.
17 Q. See young boys on a beach, right?
18 A. Yes.
19 Q. Okay. Now, let's go to -- quickly, to the
20 material the prosecutor for the government showed
21 you, okay? He showed you some magazines with
22 heterosexual activity, correct?
23 A. Yes.
24 Q. Okay. Have you seen one book that depicts
25 child pornography in that group?
26 A. No.
27 MR. ZONEN: I believe there was a Court
28 restriction on the use of that word, Your Honor, one 9165

initiated by the defense. Unless that reservation is finished.
MR. MESEREAU: He's correct. And I made a mistake using the word. I'll withdraw it, and I apologize.
THE COURT: All right. The problem is that sometimes it's an appropriate word to use and sometimes it's not. But the jury's been instructed on it. And so if you want to rephrase it, that's fine.
MR. MESEREAU: Okay.
Q. In those books that the prosecutor for the government showed you, you see books about men, right?
A. Yes.
Q. You see one book that says, "A Study of Male Sexuality" and shows some sexual acts between men, correct?
A. Yes.
Q. And he showed you a number of magazines involving sexual activity between men and women, correct?
A. Yes.
Q. Okay. Has he shown you one book involving children having sex?
A. No.
Q. Has he shown you one book where a man is having sex with a child? 9166

A. No.
Q. The prosecutor tried to suggest that Mr.
Jackson is asexual. Do you remember that question?
A. Yes.
Q. Do you believe he's asexual?
A. No.
Q. Have you seen Mr. Jackson with women in your
lifetime?
A. With what kind of woman? A woman that he's
in a relationship with?
Q. That he's been married to.
A. Yeah, with Lisa Marie.
Q. When you were at Neverland, did you ever see
anything that suggested pedophilia?
A. No.
Q. Ever see any magazine or poster that
suggested pedophilia?
A. Never.
MR. MESEREAU: No further questions.

FURTHER RECROSS-EXAMINATION
BY MR. ZONEN:
Q. Mr. Robson, when did you first learn that
Michael Jackson possessed material of the nature
that's before you right now?
A. Right now I did.
Q. All the years that you have known Michael --
A. Actually, no one's told me where this came 9167

from.
Q. Assuming this comes from Michael Jackson's residence.
A. Assuming it does, this is the first I know.
Q. All right. And you had never, ever known that Mr. Jackson collected sexually explicit material?
A. No.
Q. This is something new that you're learning just today; is that right?
A. Yes.
Q. You're telling us that this would have no effect at all on your belief that this bears on some suitability for him sleeping with ten-year-old boys?
A. No.
Q. You knew that there were a succession of ten-year-old boys that he slept with, didn't you?
MR. MESEREAU: Objection. Misstates the evidence; the Court ruling.
THE COURT: Sustained.
Q. BY MR. ZONEN: Did you know about other children that he had slept with?
A. No.
Q. Never?
A. No.
Q. Did you know that he was sleeping with Brett Barnes?
A. No. 9168

Q. Did you know that he was sleeping with
Macaulay Culkin?
A. No.
Q. Did you know that he was sleeping with
Jordie Chandler?
A. No.
MR. ZONEN: No further questions.

FURTHER REDIRECT EXAMINATION
BY MR. MESEREAU:
Q. You actually saw kids sleeping in his room
from time to time, correct?
A. Yeah. When he was present as well, yeah.
Q. And Macaulay Culkin was there as well,
correct?
A. Yeah.
Q. Never saw anything inappropriate happen,
right?
A. No.
Q. Has anything this prosecutor for the
government has said to you changed your opinion of
Michael Jackson?
A. Not at all.
Q. Does it change your opinion as to whether or
not he ever did anything inappropriate with a child?
A. Not at all.
MR. MESEREAU: No further questions.
MR. ZONEN: I have no questions. 9169

THE COURT: Thank you. You may step down.
Call your next witness.
MR. MESEREAU: Your Honor, may I remove the materials from the witness box?
THE COURT: Yes.
THE BAILIFF: Oh, I'll get it for you.
THE COURT: When you get to the witness stand, please remain standing.
Face the clerk over here and raise your right hand.

BRETT CHRISTOPHER BARNES
Having been sworn, testified as follows:

THE WITNESS: Yes.
THE CLERK: Please be seated. State and spell your name for the record.
THE WITNESS: My whole name?
THE CLERK: Yes, please.
THE WITNESS: Okay. It's Brett Christopher Barnes. B-r-e-double t; C-h-r-i-s-t-o-p-h-e-r; B-a-r-n-e-s.
THE CLERK: Thank you.

DIRECT EXAMINATION
BY MR. MESEREAU:
Q. Mr. Barnes, how old are you?
A. I'm 23 years old. 9170

Q. Where is your home?
A. Melbourne, Australia.
Q. And what kind of work do you do?
A. Right now I'm unemployed. I actually had to quit my job to come here.
Q. Okay. And what job is that?
A. I was a roulette dealer at the casino.
Q. In Melbourne?
A. Yes.
Q. Okay. Do you know the fellow seated to my right at counsel table?
A. Absolutely.
Q. Who is he?
A. It's my good friend Michael Jackson.
Q. And you say your good friend. How long have you known him?
A. Since I was five.
Q. How did you meet him?
A. I actually -- I was a big -- well, I was as big a fan as you can be at that age, of his, and he was in Melbourne for the "Bad" tour. And so my mom thought it would be a good idea for us to write a letter. My sister wrote the letter, but put it in my name as if I was writing the letter. And we went to meet him -- well, see him at the airport when he touched down. And while we were there, we gave the letter to one of his dancers, and then we left the airport after it was all over. 9171

1 And I'm not sure exactly how much time
2 passed, but after a little while, he -- we received
3 a phone call from him, and ever since then we've
4 been really good friends.
5 Q. And is he a friend of your family?
6 A. Absolutely.
7 Q. Okay. Have you ever visited Neverland
8 Ranch?
9 A. Yes, I have.
10 Q. When did you first visit Neverland Ranch?
11 A. It would have been December of '91.
12 Q. And do you remember why you visited
13 Neverland?
14 A. Because he was there, and it's his house, I
15 guess.
16 Q. Who did you go with?
17 A. My whole family went, my mother and my
18 father and my sister and myself.
19 Q. Did you stay at Neverland?
20 A. Yes, I did.
21 Q. How many times do you think you visited
22 Neverland?
23 A. Too many to remember. Probably -- it would
24 be ten or more, even. More than ten times.
25 Q. And how many times do you think you've
26 stayed over at Neverland?
27 A. Every time.
28 Q. Okay. Did you ever stay in Michael 9172

Jackson’s room?
A. Yes, I have.
Q. How many times do you think you’ve done that?
A. Countless as well.
Q. And how would you describe his room?
A. It’s big. It’s pretty cool because it’s got lots of fun stuff to do there. Video games, such as stuff like that. And it’s probably the best as I can describe it.
Q. Have you ever stayed in Michael Jackson’s bed?
A. Yes, I have.
Q. How many times do you think you have?
A. Countless as well.
Q. Has Mr. Jackson ever molested you?
A. Absolutely not. And I can tell you right now that if he had, I wouldn’t be here right now.
Q. Has Mr. Jackson ever touched you in a sexual way?
A. Never. I wouldn’t stand for it.
Q. Has Mr. Jackson ever touched any part of your body in a way that you thought was inappropriate?
A. Never. It’s not the type of thing that I would stand for.
Q. When you stayed in Mr. Jackson’s bed --
A. Uh-huh. 9173

Q. -- on any of those occasions was anyone else there?
A. Yeah.
Q. Who?
A. Well, I can't -- see, I was pretty young at the time, so I can't remember exactly. But I know my sister as being there, his cousins have been there. And -- yeah, Macaulay has actually been there as well, Macaulay Culkin. So there's been a few people.
Q. What is the longest period you think you've ever stayed at Neverland?
A. I couldn't tell you. I don't remember really.
Q. Would it be a week, or three days?
A. Longer than that.
Q. Longer than that?
A. Yeah. It would probably be a couple weeks, maybe a month at Neverland at one time.
Q. And what do you recall doing at Neverland during the times you stayed there?
A. Playing arcade games. Going ATV/motorbike-riding around the property. Going on amusement park rides. And watching plenty of movies, plenty of cartoons. Eating very good food.
Q. Do you consider Michael Jackson to be your family friend?
A. Absolutely. 9174

Q. Do you stay in communication with him?
A. Absolutely.
Q. And how do you typically communicate with Michael Jackson?
A. Like he's a member of the family. Just always had warm conversations, reminisce about old times.
Q. Are you familiar with a Jacuzzi at Neverland?
A. Yeah.
Q. Ever been in the Jacuzzi?
A. Yes, I have.
Q. Do you recall Michael Jackson ever being in the Jacuzzi with you?
A. I don't recall. He possibly could have, but I don't really remember.
Q. Do you recall ever taking a shower with Michael Jackson?
A. Never.
Q. Now, have you visited Neverland without your parents being with you?
A. Yes.
Q. And how many times do you think you've done that?
A. It wouldn't be that many. But I couldn't give you a ballpark figure even.
Q. Now, have you followed this case in the media? 9175

A. No, I haven't.
Q. Okay.
A. I chose not to.
Q. Are you aware of any allegations being made that Mr. Jackson inappropriately touched you when you were with him?
A. Yes, I am. And I'm very mad about that.
Q. You're mad about it?
A. Yeah.
Q. Why?
A. Because it's untrue, and they're putting my name through the dirt. And I'm really, really, really not happy about it.
MR. MESEREAU: No further questions.

CROSS-EXAMINATION
BY MR. ZONEN:
Q. Mr. Barnes, do you consider it disgraceful to having been molested?
A. Absolutely.
Q. All right. And why would it be a disgrace for somebody to have been molested?
A. Well, a child is --
MR. MESEREAU: Objection. This calls for speculation; foundation.
THE COURT: Sustained.
Q. BY MR. ZONEN: How old were you when you first started sharing a bed with Michael Jackson? 9176

A. Couldn’t tell you. Don’t really remember.
Q. How old were you when you first started visiting Michael Jackson?
A. When I first started visiting, I was nine.
Q. And you visited Neverland with whom?
A. With my parents.
Q. Both your mother and your father?
A. And my sister as well.
Q. Your sister as well. And how long did you stay at Neverland?
A. The first time?
Q. Yes.
A. I don’t exactly remember.
Q. Did you stay over the week?
A. Yeah.
Q. Did you then visit Neverland on a regular basis thereafter?
A. I wouldn’t say regular, but, yeah, it was quite frequent.
Q. Did you visit Neverland at least once a year thereafter?
A. Yeah.
Q. And when you visited Neverland, would you always stay with Michael Jackson?
A. Yeah, most of the time.
Q. All right. Now, I asked you, I believe, the age the first time you went. Did you answer that question? 9177

A. Yeah.
Q. And you said what? About nine?
A. Yeah.
Q. Okay. And then you would continue to go each year thereafter?
A. Yeah.
Q. Did you sometimes go more than once a year?
A. Yeah.
Q. And would you stay for longer than one week at a time?
A. Sometimes, I guess, yeah.
Q. Were there occasions where you would stay two or even three weeks?
A. I was young at the time, so I don't really remember the time frames.
Q. Okay.
A. So it would be purely speculation.
Q. Would it have been summer vacation; that is, your summer vacation in Australia?
A. I really couldn't tell you.
Q. Did you ever go to Neverland without a parent going with you?
A. Yes.
Q. So sometimes you would fly all the way from Australia to Neverland, is that right, by yourself?
A. Absolutely.
Q. Were you much older than nine years old when you did that? 9178

A. I couldn't tell you. But -- well, right --
yeah, I was older than nine.
Q. Did you visit in your tenth year and your
eleventh year and your twelfth year as well?
A. I really couldn't tell you that.
Q. Did you ever visit in your thirteenth year
and your fourteenth year?
A. I don't remember much about ages.
Q. You can't tell us how old you were when you
stopped visiting Neverland?
A. I still -- I continue to visit to this day.
Q. Do you still sleep with Michael Jackson?
A. No, I don't.
Q. How old were you when you stopped sleeping
with Michael Jackson?
A. I couldn't tell you that.
Q. Why don't you still sleep with Michael
Jackson?
A. Well, he's got kids now.
Q. And?
A. And I -- it would be purely speculation if I
told you. I could not answer that knowingly,
like -- it's just --
Q. But during the years that you were visiting
Michael Jackson at Neverland, you never stayed
anyplace but in his room; is that correct?
A. I couldn't tell you.
Q. You're telling us that you don't remember if 9179

you stayed in a guest lodge by yourself or with your mother or if you shared a bed with Michael Jackson?
A. I don't remember staying in the guest lodge by myself.
Q. But it's true, sir, that you stayed virtually the entire time in his bedroom; is that right?
A. Yeah.
Q. And during that time nobody else stayed in the bedroom with you other than you and Michael Jackson; is that true?
A. No, that's not true.
Q. On what percentage of the occasions that you visited Michael Jackson was there somebody else staying in that room?
A. I couldn't tell you.
Q. Can you tell us the names of the people who stayed in the room with you?
A. My sister. Macaulay Culkin. There was Levon and Elijah. There was Frank, Eddie, and Dominick.
Q. Was Frank --
A. Prince as well.
MR. MESEREAU: Objection, he hasn't finished the question.
THE WITNESS: His son Prince as well.
Q. BY MR. ZONEN: Prince? Prince is how old now? 9180

A. I'm not quite sure.
Q. About what, seven?
A. Yeah. I guess so.
Q. And how old was Prince when he stayed in the room with you and Michael Jackson?
A. I think he was three.
Q. All right. So it was about four years ago?
A. Yeah.
Q. So you stayed in the room with Michael Jackson when you were 18 years old?
A. Yeah.
Q. You're 22 now?
A. 23. 23.
Q. So you were 19 years old?
A. Yeah, I guess.
Q. Did you share a bed with him at that time?
A. Yeah, I did.
Q. You did. Have you been sharing a bed with him consistently from age nine until age 19?
A. What do you mean by "consistent"?
Q. Well, in all the times that you visit, predominately do you stay in his room, in his bed?
A. Yeah.
Q. Did you do it when you were ten years old as well?
A. Yeah.
Q. Did you do it when you were 11 years old as well? 9181

A. Yes.
Q. Most of the times you did it, there was nobody else in the room; is that correct?
A. I guess you could say that.
Q. Because Macaulay Culkin was only in the room with you once or twice; isn't that true?
A. I couldn't tell you how many times.
Q. Could he have been in the room 20 or 30 times?
A. Probably not.
Q. So really it's closer to once or twice; is that right?
A. Yeah, I guess so.
Q. All right. And your sister stayed there the first time you visited; is that right?
A. Not just the first time.
Q. Did she stay there the second time?
A. I -- look, I don't really remember.
Q. Did your sister share a bed with you and Michael Jackson ever?
A. I can't recall.
Q. You can't recall if your sister shared a bed?
A. I can't remember.
Q. When did your sister stop visiting Neverland?
A. She still visits to this day.
Q. Does she still share a bed with you and 9182

Michael Jackson?
A. No.
Q. When was the last time your sister shared a bed with you and Michael Jackson?
A. I couldn't tell you. I don't know the exact period of time.
Q. Could you have been 15 or 16 years old?
A. I couldn't tell you.
Q. Could you have been ten?
A. I couldn't tell.
Q. Mr. Barnes, the best you can tell us about when your sister last shared a bed with you and Michael Jackson, you have no idea?
A. It's not something that I think of. What -- why would I try and remember that?
Q. Is there --
A. Why would I think about it?
Q. Is there any other 35-year-old man that you slept with when you were ten years old besides Michael Jackson?
A. Yes.
Q. Who?
A. My uncle.
Q. All right. A family member.
A. Yeah.
Q. Who else?
A. That would probably be it. I can't recall any others. 9183

Q. All right. Now, with whom do you live at this time?
A. My parents and my sister.
Q. And both your parents?
A. Yeah.
Q. And that's in Australia?
A. Yes.
Q. All right. Did your father ever visit Neverland with you?
A. Yes, he did.
Q. When your father visited Neverland with you, where did you stay?
A. Both in the guesthouse and both with him.
Q. Both in the guesthouse and with Mr. Jackson?
A. I stayed with Mr. Jackson, yeah.
Q. Did you ever have a conversation with your father about the propriety of sharing a bed with a 35-year-old man?
A. Not that I recall.
Q. Did you ever have a conversation with your mother about that, whether that was a wise thing to do, to share a bed with a 35-year-old man?
A. Not that I recall.
Q. Did he ever show you any sexually explicit material?
A. Absolutely not.
MR. MESEREAU: Objection; beyond the scope.
THE COURT: Overruled. The answer is, 9184

1 “Absolutely not.”
2 Q. BY MR. ZONEN: Were you aware that he
3 possessed sexually explicit material?
4 A. No.
5 Q. Did you ever travel with Michael Jackson
6 anywhere?
7 A. Yes, I did.
8 Q. Where?
9 A. South America, North America, Africa, and
10 Europe.
11 Q. On those occasions --
12 A. And Australia as well, I’m sorry.
13 Q. On those occasions did you share a bed with
14 him?
15 A. Yes.
16 Q. Were any other people present while you were
17 in the room with him?
18 A. I don’t recall. I can’t -- I can’t
19 remember.
20 Q. Was your mother with you when you traveled
21 through South America?
22 A. I think so.
23 Q. You think so?
24 A. Look, when I was young, I wasn’t really
25 thinking about this sort of stuff. I wasn’t trying
26 to retain in my memory this sort of stuff. And
27 what’s sad is that I traveled to all these countries
28 and I really don’t remember much of them. So it’s 9185

all sort of -- it's all sort of meshed into one.
Q. Mr. Barnes, how old were you when you traveled through South America with Mr. Jackson?
A. To tell the truth, I cannot remember.
Q. You can't tell whether you were 19 or 10?
A. Well, I wasn't 19. It was in my middle teens, maybe -- no, it would have been in my early -- early teens.
Q. 12?
A. It could have been possibly 12.
Q. So you were 12 or 13. You don't know if your mother was there with you when you traveled through South America?
A. She was, actually.
Q. In fact, you traveled quite a bit with Mr. Jackson without your mother being present; isn't that true?
A. No.
Q. Did you travel through North America with Mr. Jackson without your mother?
A. Yes.
Q. And in how many cities through North America did you go without your mother and Mr. Jackson?
A. I'm not too sure.
Q. Six or seven, perhaps eight?
A. I couldn't tell you.
Q. Was he performing at the time, Mr. Jackson?
A. For which? 9186

Q. On the trip through North America, was he performing?
A. No, he wasn't.
Q. Did you travel with him when he was performing?
A. Yes.
Q. Was that -- in South America, was he performing then?
A. Yes.
Q. And every night after the performance, you would go with him to his room; is that correct?
A. Yes.
Q. And you stayed in his bed that night?
A. Yep.
Q. In North America when you traveled, your mother was not there?
A. Not -- well, see, she went to some cities, like we all went to some cities, and sometimes we -- I went. Like on some of the occasions when I was gone, coming over here alone, we'd go around. But sometimes when my whole family was there, we'd go around, too.
Q. How many times did you come to the United States by yourself?
A. Probably only two or three maybe.
Q. And did Mr. Jackson arrange for that to happen?
A. He arranged for all of our trips. 9187

Q. So all of the transportation for you and your family from Australia to Neverland; is that correct?
A. Yeah.
Q. And then all the travels that you did through the United States and through South America?
A. Uh-huh. I was very fortunate.
Q. I'm sorry?
A. I was very fortunate.
Q. When you slept with Mr. Jackson, what generally did you wear?
A. Sorry?
Q. When you slept with Mr. Jackson in the same bed, what would you wear?
A. Pajama pants, T-shirt, pajama top sometimes.
Q. Always?
A. Well, always pajama pants, always a T-shirt.
Q. And Mr. Jackson?
A. Exactly the same thing.
Q. Always pajamas and pajama bottoms?
A. Uh-huh.
Q. I'd like to show you a series of photographs and tell me if you recognize them, the people in this photo. Let's start with 893.
A. Yep.
Q. Who's that?
A. That's me and him.
Q. Are these Polaroids? 9188

A. They look so.
Q. Do you remember taking these pictures?
A. Not at all.
Q. Do you remember where you were?
A. Not at all.
Q. Can you tell us about how old you were?
A. Probably about 11 maybe, 10.
Q. I notice you've changed your hairstyle since then, haven't you?
A. Yes.
Q. You were about nine or ten. So this was early on in your meeting with Mr. Jackson; is that right?
A. Yeah, I would say so.
Q. All right. This is 893, and that has two photos on the front, and two photos on the back; is that right?
A. Yep.
Q. And that's you in the two photos in the back as well?
A. Yep.
Q. All right. 892, is that you as well?
A. Yep.
Q. And Mr. Jackson?
A. Yep. Yep.
Q. And the two on the back? Do these appear to have been taken at the same time?
A. These? 9189

Q. Yes.
A. Yeah, I'd say so.
Q. 891, who is that?
A. That's Michael Jackson.
Q. Did you take those pictures?
A. Couldn't tell you.
Q. They appear to have been taken at the same time; no?
A. Possibly.
Q. All right. If I were to tell you that they were all found together, would that suggest that they were all taken at the same time?
MR. MESEREAU: Objection; calls for speculation.
THE COURT: Sustained.
Q. BY MR. ZONEN: Turn it over, if you would, to the back side. Three more pictures on the back. What are they?
A. Of Michael Jackson.
Q. Do you remember those pictures?
A. Not at all.
Q. Does that look familiar to you?
A. No.
Q. Mr. Barnes, did you take those photographs?
A. I couldn't tell you. I don't -- I couldn't tell you, no.
Q. 890, two pictures on the front. Would you take a look at those two pictures? 9190

A. Uh-huh.
Q. One of those is you; is that right?
A. Yes, it is.
Q. You appear to be in bed.
A. Uh-huh.
Q. The other picture is what?
A. Appears to be Michael Jackson.
Q. And he's in his underwear; is that right?
A. Yes, it is.
Q. 889, is that you?
A. Yes, it is.
Q. And anything on the back?
A. Yep.
Q. Is that you as well?
A. Yes, it is.
Q. All right. Do you remember those pictures?
A. Don't remember taking them, but I can tell you where they were taken.
Q. Where?
A. They were taken at the ranch.
Q. They were taken at the ranch?
A. In a photo booth.
Q. There's a photo booth at the ranch on that one there?
A. Yep.
Q. Do you recognize the background on any of the other photographs?
A. On these? 9191

Q. Yes.
A. No, I don't. No.
Q. Are all of these photographs accurate photographs of the subjects depicted within? In other words, the photographs of Mr. Jackson really are Mr. Jackson and the photographs of you really are you?
A. That one's a bit sketchy, but the rest, yeah.
Q. The one in his underwear?
A. Yeah.
Q. You're not sure that's him?
A. Well, you can't really see the face properly.
Q. Mr. Barnes, before coming from Australia, did you speak with anybody about your testimony?
A. No.
Q. They simply flew you from Australia to California?
A. Well, they explained that I'd be a witness.
Q. And then they interviewed you after you got here?
A. The interview?
Q. Yes. You had an interview with an investigator --
A. Yes.
Q. -- who works for Mr. Mesereau; is that right? 9192

A. Yes.
Q. And that interview took place after you got to California?
A. Yes, it did.
Q. So they had no way of knowing what you were going to say while you were still in Australia?
A. No.
Q. Because they never talked with you at all?
A. Not about the case, not being a witness. I signed a declaration.
Q. You signed a declaration from where?
A. From -- I was at home. Melbourne, Australia.
Q. Melbourne, Australia?
A. Yeah.
Q. All right. So somebody wrote a declaration and they sent it to you, is that right, in Australia?
A. Faxed it.
Q. I'm sorry?
A. Faxed it.
Q. They faxed it you. But you had to have talked to somebody to tell them what to put in the declaration, didn't you do that?
A. Yes, I did.
Q. So you did talk with somebody while you were in Australia?
A. Yes. 9193

Q. Who was the person that you talked with while you were in Australia?
A. It was Brian Oxman and some -- I think it might be Scott Ross as well. But I'm not exactly sure.
Q. And then they prepared a declaration, they sent it to you; is that correct?
A. That's correct.
MR. ZONEN: Madam Clerk, could I have another sticker that says....
Q. Let me show you 894, four photographs on it.
MR. MESEREAU: Excuse me, Counsel. Are these what I saw before? Are these what you showed me earlier?
MR. ZONEN: Not the first set. Let me show you.
Q. 893, would you take a look at that, please, both sides of that?
A. Yep.
Q. That contains a total of six pictures, two on one side, four on the back; is that right?
A. That's correct.
Q. And those are all pictures of you, one picture of Mr. Jackson?
A. Correct.
Q. 894?
A. Uh-huh.
Q. That's who? 9194

A. Michael Jackson.
Q. All four of those pictures?
A. Correct.
Q. Do you recognize the location?
A. No, I don't.
Q. You have no recollection of that?
A. No.
Q. Could that have been a hotel you stayed in?
A. Quite possibly.
Q. All right. 896?
A. Uh-huh.
Q. Does any of that look familiar to you?
A. Is this New York? I don't remember any of these pictures.
Q. Do you remember any of those pictures being taken?
A. Not at all.
Q. And your age, approximately, in those photographs?
A. I would have absolutely no idea.
Q. You would have no idea at all?
A. Well, these ones of me?
Q. Yes. You.
A. Probably about the same age.
Q. Okay. Does it appear that those photographs were taken about the same time?
A. Purely speculation, but, yes.
Q. Is your hairstyle the same as -- 9195

MR. MESEREAU: Objection; move to strike.
THE COURT: Stricken. Speculation.
Q. BY MR. ZONEN: Based on your familiarity with yourself, does it appear that you are about the same age in each of the photographs so far shown to you?
A. Yes.
Q. And all those photographs are you with Michael Jackson in a room someplace; is that right?
A. Yes.
Q. You have no recollection of when those photographs were taken?
A. Absolutely not.
Q. And the pictures of Mr. Jackson, you have no recollection of actually taking those yourself?
A. Absolutely not.
Q. Were there many occasions, when you were ten years old, that you traveled by yourself with Mr. Jackson?
A. I wouldn't say -- well, I'm not sure I understand the question.
Q. Did you travel more than one trip with Mr. Jackson when you were about the age of 10 by yourself?
A. Do you mean from my home?
Q. Yes.
A. Around?
I can't really remember. I can't remember 9196

how many times. It might have been one, might have been two. I can't really tell you.
Q. On the occasions when you traveled with Mr. Jackson and he was on tour, did you go to all of the concerts?
A. I'm not sure.
Q. Was there ever a woman traveling with Mr. Jackson while you were traveling with him?
A. A woman?
Q. Yes.
A. I'm not -- what do you mean, though?
Q. Somebody with whom he was close to. I don't mean an assistant. I mean a friend or a girlfriend.
A. Not that I recall.
Q. At the time that you were traveling with him in South America, was he ever traveling with a woman? And I don't mean an assistant. A girlfriend.
MR. MESEREAU: Object as beyond the scope.
THE COURT: Sustained.
Q. BY MR. ZONEN: Were there ever any other people traveling with you as part of your unit?
A. Where?
Q. When you traveled.
A. Sometimes.
Q. Did any of them sleep in the same room with you and Mr. Jackson?
A. I can't really recall. I don't remember. 9197

Q. Did anyone ever share a bed with you and Mr. Jackson, where there were three of you in the same bed together?
A. Can't really remember.
Q. Did your sister ever sleep with you in the same bed and Mr. Jackson?
A. Unfortunately, I can't really remember that either.
Q. Do you know Wade Robson?
A. Yes.
Q. How well do you know Wade Robson?
A. Not very.
Q. Have you kept up some kind of friendship with Mr. Robson?
A. Nope.
Q. Is that a "no"?
A. That's a "no."
Q. When was the last time you spoke with Mr. Robson?
A. Today.
Q. All right. Today you saw him. When was the last time prior to today?
A. Yesterday.
Q. Okay. So you've been staying at Neverland, have you?
A. Yes.
Q. Did you have an opportunity to talk with Mr. Robson? 9198

A. I had an opportunity, yeah. Yeah.
Q. And did you speak with Mr. Robson?
A. Yes.
Q. Did you discuss your testimony?
A. Absolutely not.
Q. And why not?
A. Because it was explained to us that we were not allowed to.
Q. Who was that who told you that?
A. The lawyers did.
Q. Did they say why you weren't allowed to?
A. Isn't it against the law?
Q. Is that what they told you, it was illegal to talk with each other?
A. No, they didn't. They just explained that it wasn't -- they just said, "Don't talk about the case."
Q. Were you aware of Wade Robson spending long periods of time with Michael Jackson?
MR. MESEREAU: Objection. Beyond the scope; relevance.
THE COURT: Sustained.
Q. BY MR. ZONEN: Did Michael Jackson ever speak to you about other boys who spent nights with him in his room?
MR. MESEREAU: Objection. Beyond the scope; relevance; foundation.
THE COURT: Sustained. 9199

Q. BY MR. ZONEN: Did you ever talk with
Michael Jackson about the propriety of sharing a bed
with him?
MR. MESEREAU: Objection. Beyond the scope;
foundation; and relevance.
THE COURT: Overruled.
Q. BY MR. ZONEN: Go ahead and answer the
question.
A. Not that I recall.
Q. At no time did you ever have a conversation
with Michael Jackson where the subject of the
conversation was whether or not you should be
sharing a bed with him?
A. Not that I recall.
Q. Did he ever tell you that you were like
family to him?
A. All the time.
Q. All the time. Did he ever tell you that you
should trust him?
A. Yeah.
Q. Did he ever tell you that he was like a
father to you?
A. He may have, yes.
Q. Did he ever tell you that he considered you
to be like a son to him?
A. Yes.
Q. Was that something he frequently said to
you? 9200

A. Not frequently.
Q. Was that something that he frequently said to you during the early stages of your relationship when you were about age eight?
A. Never met him when I was age eight.
Q. You were about nine?
A. Yeah.
Q. Okay. So how long after you had begun visiting Neverland did Mr. Jackson speak to you in such terms, tell you you were like family to him or like a son to him?
A. I couldn't tell you.
Q. Did he ever have a conversation with your mother of that nature, tell your mother that he considered her to be like family to him as well?
A. Wouldn't have a clue.
Q. That was never done in your presence?
A. Possibly. I don't remember.
Q. Did your mother ever have a conversation with him about anything in your presence?
A. Quite possibly.
Q. Is it the case that when you were kids and running around Neverland, on occasion you would get fairly rowdy?
A. Nope.
Q. You were always fairly well disciplined and behaved?
A. I was brought up right. 9201

Q. How about the other kids who were at Neverland while you were there?
A. As far as I remember, yeah, we were all pretty -- there were a couple maybe, but I never really saw an outbreak.
Q. You never saw what?
A. An outbreak.
Q. An outbreak?
Who were the other boys who were there about the time that you were there?
A. I saw Mac there, Macaulay Culkin. His -- Levon and Elijah. Frank, Eddie, Dominick --
Q. How old was Frank at the time?
MR. MESEREAU: Objection. He hasn't finished his answer yet, Your Honor.
THE COURT: Sustained.
Q. BY MR. ZONEN: Go ahead.
A. Aldo. Marie Nicole. My sister, of course. That's all I really remember.
Q. Of the ones that you've mentioned, how many of them shared Michael Jackson's bedroom while you were there?
A. All of them have.
Q. Did -- all of them?
A. I'm pretty sure.
Q. On how many nights do you think, all at the same time?
A. Not at the same time, because like one trip 9202

we'd see -- we saw Mac, and the other trips we saw everyone else.
Q. And would they share the same bed with you and Mr. Jackson?
A. I can't honestly recall that.
Q. Do you remember any of those people who you just mentioned sharing a bed with Mr. Jackson in your presence?
A. Yeah.
Q. Who?
A. Mac.
Q. Macaulay Culkin?
A. Yeah.
Q. Who else?
A. Frank.
Q. Frank Cascio?
A. Yeah.
Q. How old was Frank Cascio at the time?
MR. MESEREAU: Objection. He hasn't finished his answer yet.
THE WITNESS: Eddie.
THE COURT: I can't tell if he has or not. Have you finished your answer?
THE WITNESS: No, I haven't.
THE COURT: Go ahead.
THE WITNESS: Eddie. That's probably -- that's all I can recall.
Q. BY MR. ZONEN: "Eddie" is Eddie who? 9203

A. Cascio.
Q. That's Frank's brother?
A. Yeah.
Q. How old was Frank at that time?
A. Wouldn't be able to tell you.
Q. Well, was he a child?
A. I never knew him as a child. He's -- he's older than me, so....
Q. You only know Frank Cascio as an adult?
A. No. He's like a year older, two years older than me.
Q. You said you never knew him as a child?
A. Well, as a child, I consider to be under the age of 10.
Q. How about as a young teenager?
A. Yeah.
Q. So you saw him there as a young teenager?
A. Yeah.
Q. Would he share Michael Jackson's bed as well?
A. If I recall correctly, yeah.
Q. And Eddie, how old was Eddie during that time?
A. Like he's -- it would have been a young teenager as well.
Q. What's the longest period of time that any of those people stayed in Michael Jackson's room while you were there? In other words, how many 9204

consecutive days did that happen?
A. Can't recall properly.
Q. Did Michael Jackson ever tell you that he loved you?
A. Yeah, all the time.
Q. Did he ever touch you?
A. In what manner?
Q. Did he ever kiss you?
A. On the cheek, on the forehead, yeah.
Q. Often?
A. I wouldn't say often, but, yeah. I've -- I can't really remember these things. It's not something that would -- you know, I would try to remember.
MR. ZONEN: I have no further questions.
MR. MESEREAU: I have no further questions, Your Honor.
THE COURT: All right. Thank you. You may step down.
I think we'll start the next witness tomorrow.
(To the jury) I'll see you tomorrow at 8:30. Remember the admonition. Have a good evening.
(The proceedings adjourned at 2:30 p.m.)
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REPORTER'S CERTIFICATE

THE PEOPLE OF THE STATE OF )
CALIFORNIA, )
Plaintiff, )
-vs- ) No. 1133603
MICHAEL JOE JACKSON, )
Defendant. )

I, MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304, Official Court Reporter, do hereby certify: That the foregoing pages 9016 through 9205 contain a true and correct transcript of the proceedings had in the within and above-entitled matter as by me taken down in shorthand writing at said proceedings on May 5, 2005, and thereafter reduced to typewriting by computer-aided transcription under my direction.

DATED: Santa Maria, California,
May 5, 2005.

MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304
OFFICIAL COURT REPORTER